

I

**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 THE CLASS I LIQUOR LICENSE APPLICATION FOR PIZZA WEST DBA PIZZA WEST, LA VISTA, NEBRASKA.

WHEREAS, Pizza West dba Pizza West, 12040 McDermott Plaza, Suite 200, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for a Class I 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 the Class I Liquor License application submitted by Pizza West dba Pizza West, 12040 McDermott Plaza, Suite 200, La Vista, Sarpy County, Nebraska.

PASSED AND APPROVED THIS 16TH DAY OF APRIL, 2013.

**CITY OF LA VISTA**

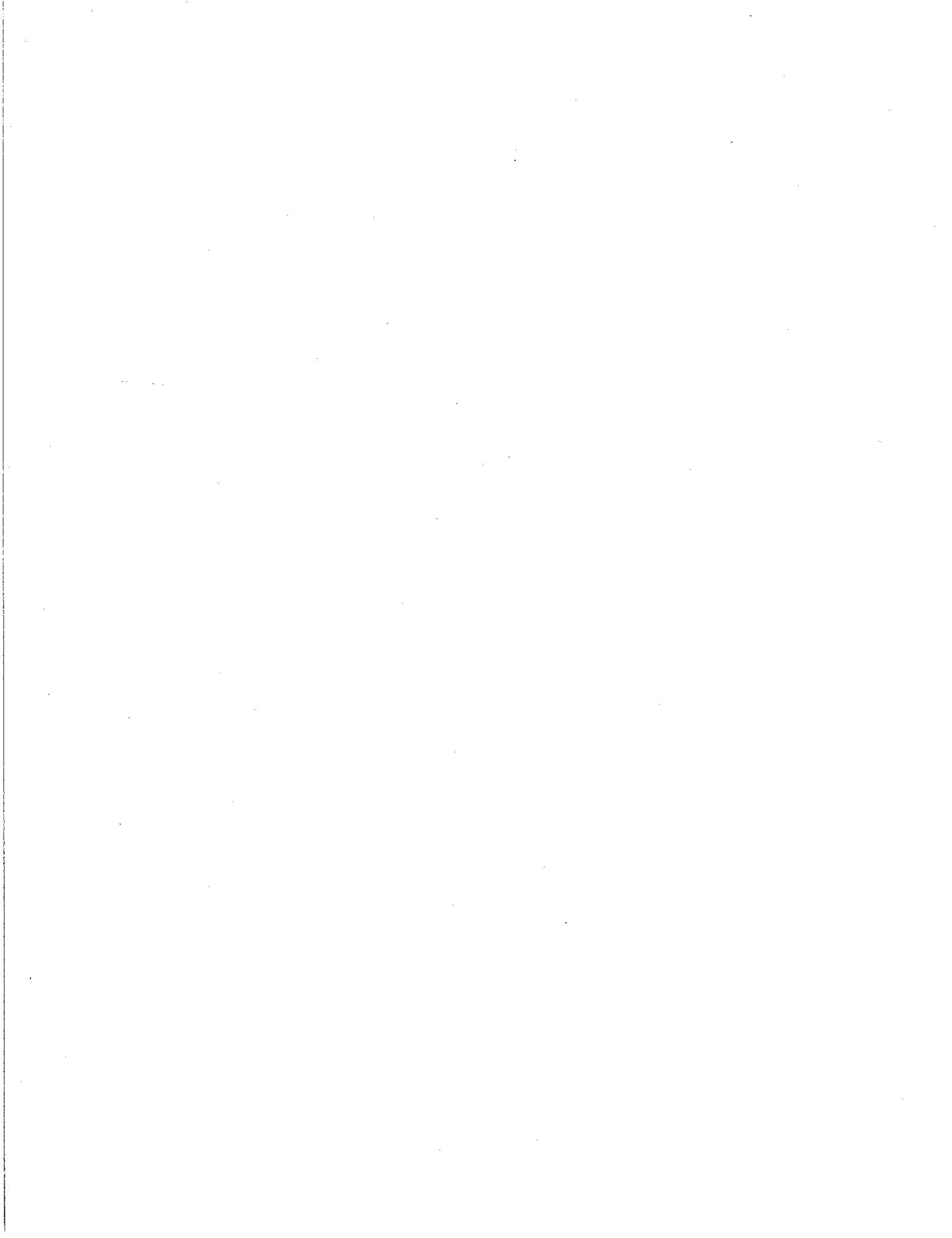
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Douglas Kindig, Mayor

ATTEST:

---

Pamela A. Buethe, CMC  
City Clerk



# ► RECEIPT

3/20/2013

From: Michelle Porter - MICHELLE.PORTER@NEBRASKA.GOV

Phone: 402/471-2821

Fax: 402/471-2814

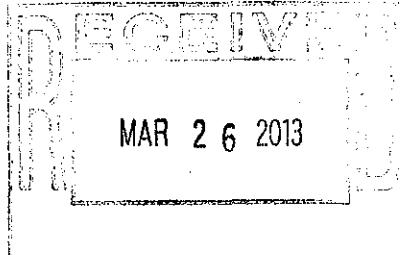
Company Name: Nebraska Liquor Control Commission

To: City Clerk - LaVista

Subject: Pizza West - #102375

Liquor License Application

PLEASE COMPLETE THE BOTTOM SECTION IMMEDIATELY UPON RECEIPT OF THIS APPLICATION AND FAX OR EMAIL THIS FORM BACK ACKNOWLEDGING THE RECEIPT OF THIS APPLICATION. PLEASE DATE STAMP IF THAT OPTION IS AVAILABLE. THANK YOU.



DATE OF RECEIPT

Samuel A. Suethe

SIGNATURE

Urgent  For Review  Please Comment  Please Reply  Please Recycle



Dave Heineman  
Governor

## STATE OF NEBRASKA

### NEBRASKA LIQUOR CONTROL COMMISSION

Robert B. Rupe  
Executive Director  
301 Centennial Mall South, 5th Floor  
P.O. Box 95046  
Lincoln, Nebraska 68509-5046  
Phone (402) 471-2571  
Fax (402) 471-2814 or (402) 471-2374  
TRS USER 800 833-7352 (TTY)  
web address: <http://www.lcc.ne.gov/>

March 20, 2013

LaVista City Clerk  
8116 Park View Blvd  
La Vista NE 68128-2198

RE: Pizza West

Dear Local Governing Body:

Attached is the form to be used on all retail liquor license applications. Local clerks must collect proper license fees and occupation tax per ordinance, if any, before delivering the license at time of issuance.

#### TWO KEY TIME FRAMES TO KEEP IN MIND ARE:

- 1) Publicize one time not less than 7 days not more than 14 days prior to date of hearing.
- 2) You have 45 days to conduct a hearing after the date of receipt of the notice from this Commission (§53-134). You may choose NOT to make a recommendation of approval or denial to our Commission.

PER §53-133, THE LIQUOR CONTROL COMMISSION SHALL SET FOR HEARING ANY APPLICATION WHEREIN:

- 1) There is a recommendation of denial from the local governing body,
- 2) A citizens protest; or
- 3) Statutory problems that the Commission discovers.

PLEASE NOTE A LICENSEE MUST BE "PROPERLY" LICENSED IN ORDER TO PURCHASE FROM WHOLESALERS, AND A LICENSE IS EFFECTIVE:

- 1) Upon payment of the license fees;
- 2) Physical possession of the license;
- 3) Effective date on the license.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION  
Michelle Porter  
Licensing Division

#### Enclosures

Janice M. Wiebusch  
Commissioner

Robert Batt  
Chairman

William F. Austin  
Commissioner

# RECOMMENDATION OF THE NEBRASKA LIQUOR CONTROL COMMISSION

April 19, 2013 MP

Date Mailed from Commission Office: March 20, 2013

I, \_\_\_\_\_ Clerk of \_\_\_\_\_  
(City, Village or County)

Nebraska, hereby report to the Nebraska Liquor Control Commission in accordance with Revised Statutes of Nebraska, Chapter 53, Section 134 (7) the recommendation of said city, village or county, as the case may be relative to the application for a license under the provisions of the Nebraska Liquor Control Act as applied for by:

**Pizza West Inc dba Pizza West**

**12040 McDermott Plaza, Suite 300, La Vista NE 68128 (Sarpy County)**

**NEW APPLICATION for Class I 102375**

**45 days May 6, 2013**

1. Notice of local hearing was published in a legal newspaper in or of general circulation in city, village or county, one time not less than 7 nor more than 14 days before time of hearing.

**Check one:** Yes \_\_\_\_\_ No \_\_\_\_\_

The Statutes require that such hearing shall be held not more than 45 days after the date of receipt of this notice from the Commission.

2. Local hearing was held not more than 45 days after receipt of notice from the Nebraska Liquor Control Commission.

**Check one:** Yes \_\_\_\_\_ No \_\_\_\_\_

3. Date of hearing of Governing Body: \_\_\_\_\_

4. Type or write the Motion as voted upon by the Governing Body. If additional Motions are made by the Governing Body, then use an additional page and follow same format.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Motion was made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

6. Roll Call Vote: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. **Check one:** The motion passed: \_\_\_\_\_ The motion failed: \_\_\_\_\_

8. If the motion is for recommendation of denial of the applicant, then list the reasons of the governing body upon which the motion was made.

(Attached additional page(s) if necessary)

**SIGN HERE** \_\_\_\_\_ **DATE** \_\_\_\_\_  
(Clerks Signature)

**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  
Website: [www.lcc.ne.gov](http://www.lcc.ne.gov)

*New*

*QX*

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NEBRASKA LIQUOR  
CONTROL COMMISSION

*Michelle*

Applicant Name PizzaWest, Inc.

**I 102375**

Trade Name Pizza West Previous Trade Name N/A

E-Mail Address: derouchey@cox.net

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 state.

**REQUIRED ATTACHMENTS**

Each item must be checked and included with application or marked N/A (... applicable)

*James DeRouchey  
Jeffrey Evans  
Mary DeRouchey*

1. Fingerprint cards for each person (two cards per person) must be enclosed with a check payable to the Nebraska State Patrol for processing in the amount of \$38.00 per person. All areas must be completed on cards as per brochure. To prevent the delay in issuing your license, we strongly suggest you go to any Nebraska State Patrol office. See fingerprint brochure <http://www.lcc.ne.gov/brochures/fingerprint.pdf>.

2. Enclose application fee of \$400, check made payable to the Nebraska Liquor Control Commission.

3) Enclose the appropriate application forms;  
Individual License (requires insert form 1)  
Partnership License (requires insert form 2)  
Corporate License (requires insert form 3a & 3c)  
Limited Liability Company (LLC) (requires form 3b & 3c)

*dece.*

4. If building is being leased send a copy of signed lease. Be sure the lease reads in the name of individual(s), corporation or Limited Liability Company making application. Lease term must run through license year being applied for.

5. If building is owned or being purchased send a copy of the deed or purchase agreement in the name of the applicant.

6. If buying the business of a current liquor license holder:

a) Provide a copy of the purchase agreement from the seller (must read applicants name)

*CK # 6778*

*\$400.00*

*(MP)*

*Rec # 167516*

*Courier delivered*

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**ROB**

FORM 100  
REV 02/2013  
PAGE 1



b) Provide a copy of alcohol inventory being purchased (must include brand names and container size)  
c) Enclose a list of the assets being purchased (furniture, fixtures and equipment)

NA 7. If planning to operate on current liquor license; enclose Temporary Operating Permit (T.O.P.)(form 125).

NA 8. Enclose a list of any inventory or property owned by other parties that are on the premise.

XO 9. For citizenship, residency and voter registration requirements see enclosed brochure.

XO 10. Corporation or Limited Liability Company must enclose a copy of articles of incorporation; as filed with the Secretary of State's Office. This document must show barcode.

XO 11. Submit a copy of your business plan.

I acknowledge that this application is not a guarantee that a liquor license will be issued to me, and that the average processing period is 60 days. Furthermore, I understand that all the information is truthful and I accept all responsibility for any false documents.

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NEBRASKA LIQUOR  
CONTROL COMMISSION

Signature

President

March 13, 2013

Date

RECEIPT

DATE	3-15-13	NO.	167516
FROM	James M Derouche		
FOR	New App - Pizza West		
		<input type="checkbox"/> CASH	
		<input checked="" type="checkbox"/> CHECK #	6778
		<input type="checkbox"/> MONEY#	
		ORDER	
Received by <u>Michelle Peter</u>			

**APPLICATION FOR LIQUOR LICENSE  
RETAIL**

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.ne.gov/](http://www.lcc.ne.gov/)

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**CHECK ONE CLASS FOR WHICH APPLICATION IS MADE AND FEES  
CHECK INSTRUMENT CLASS**

**RETAIL LICENSE(S)**

Application Fee \$400 (non refundable)

- A BEER, ON SALE ONLY
- B BEER, OFF SALE ONLY
- C BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE
- D BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY
- E BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY
- 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
- ID BEER, WINE, DISTILLED SPIRITS ON AND OFF SALE

Class K Catering license (requires catering application form 106) \$100.00

Additional fees will be assessed at city/village or county level when license is issued

Class C license term runs from November 1 – October 31

All other licenses run from May 1 – April 30

Catering license (K) expires same as underlying retail license

**CHECK TYPE OF LICENSE FOR WHICH YOU ARE APPLYING**

- Individual License (requires insert form 1)
- Partnership License (requires insert form 2)
- Corporate License (requires insert form 3a & 3c)
- Limited Liability Company (LLC) (requires form 3b & 3c)

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

Commission will call this person with any questions we may have on this application

Name Nicholas T. Dafney Phone number: (402) 392-1250

Firm Name Abrahams Kaslow & Cassman LLP

# BOOKS FOR WOMEN

Trade Name (doing business as) **Pizza West**

12040 McDermott Plaza, Suite 300

Street Address #2

City **La Vista** County **Sarpy** Zip Code **68128**

Is this location inside the city/village corporate limits:  YES  NO

Mailing address (where you want to receive mail from the Commission)

Name **PizzaWest, Inc.**

12040 McDermott Plaza, Suite 300

Street Address #2

City **La Vista** State **Nebraska** Zip Code **68128**

## DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED

## REVIEW GALLERY

In the space provided or on an attachment draw the area to be licensed. This should include storage areas, basement, outdoor area, sales areas and areas where consumption or sales of alcohol will take place. If only a portion of the building is to be covered by the license, you must still include dimensions (length x width) of the licensed area as well as the dimensions of the entire building. No blue prints please. Be sure to indicate the direction north and **number of floors** of the building.

\*\*For on-premise consumption liquor licenses minimum standards must be met by providing at least two restrooms

Length 82 feet  
Width 70 feet

Is there a basement? Yes  No

PROVIDE DIAGRAM OF AREA TO BE LICENSED BELOW OR ATTACH SEPARATE SHEET

SEE ATTACHED EXHIBIT A

EXHIBIT A      Irregular-Shaped area approx  
82' x 72' of one-story bldg plus 1-Shaped  
patio approx 24' x 40'      RECEIVED  
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MAR 15 2013  
NEBRASKA LIQUOR  
CONTROL COMMISSION

**Porter, Michelle**

**From:** Nicholas Dafney <ndafney@akclaw.com>  
**Sent:** Monday, March 18, 2013 9:18 AM  
**To:** Porter, Michelle  
**Subject:** Re: APPLICATION FOR CLASS I LIQUOR LICENSE - PIZZA WEST INC

Michelle,

Please consider this email to be confirmation that the written description of the premises described in your email is correct.

If you have any additional questions or if we can be of any further assistance in the processing of the Pizza West application, please do not hesitate to contact me. Thanks.

--Nick Dafney

"Porter, Michelle" <[michelle.porter@nebraska.gov](mailto:michelle.porter@nebraska.gov)> wrote:

I have received the application for a Class I liquor license for Pizza West. There is one question I will need you to answer in order to process this application. You can fax, email or mail the information below to my attention. Please let me know if you have any further questions

- 1) The written description needs to have the entire area included. Is this a proper description: Irregular shaped area approx. 82' x 72' of one-story building plus l-shaped patio area approx. 24' x 40'? Please advise.

Thank you,

Michelle Porter

Licensing Division

Nebraska Liquor Control Commission

402/471-2821

[michelle.porter@nebraska.gov](mailto:michelle.porter@nebraska.gov)

Website : <http://www.lcc.ne.gov>

**PIZZAWEST, INC.**

**Exhibit A**  
**To Application for Liquor License-Retail**

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**MAR 15 2013**

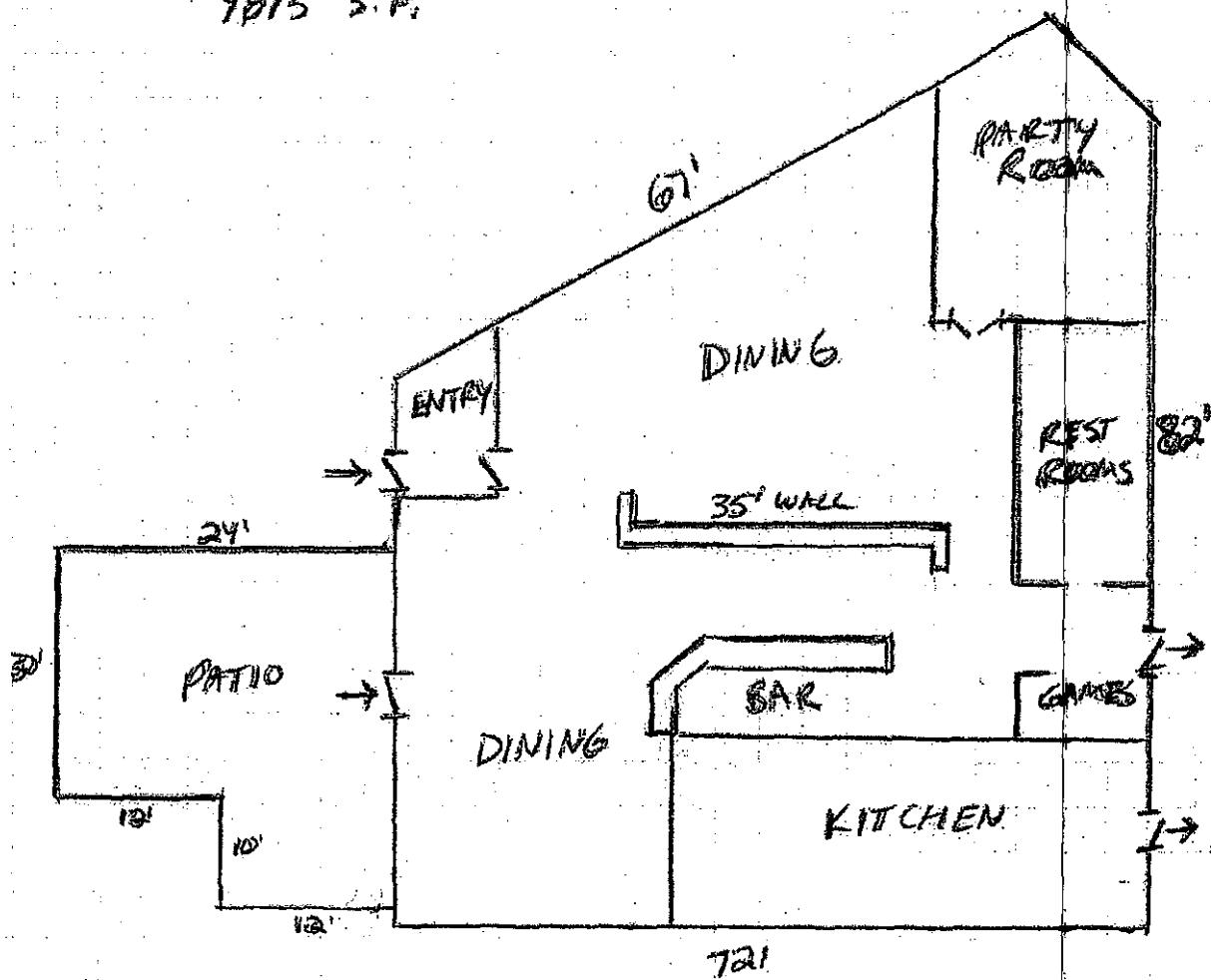
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PIZZAWEST, INC  
12040 McDERMOTT PLAZA  
LA VISTA, NE 68128  
4815 S.E.

NEBRASKA LIQUOR  
CONTROL COMMISSION



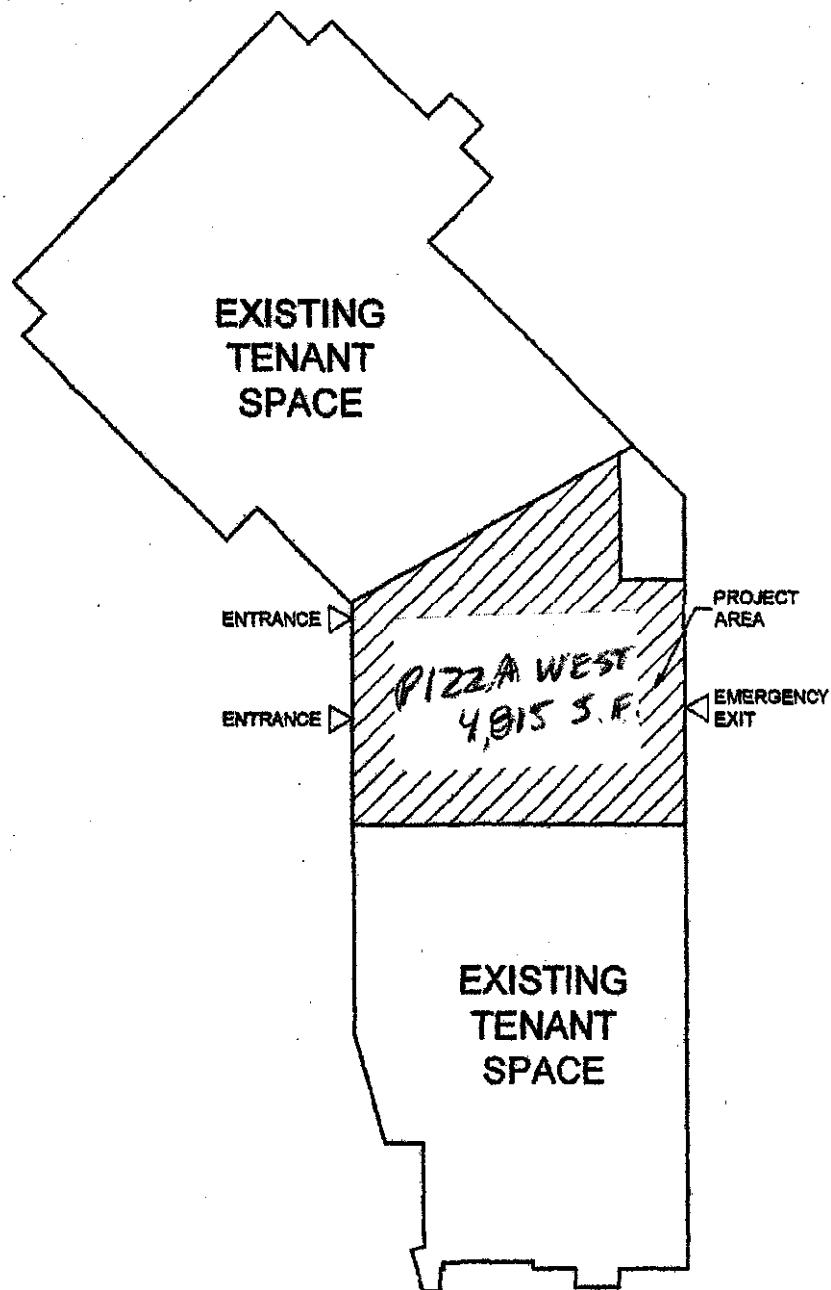
N  
↗

# PROJECT LOCATION PLAN

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CONTROL COMMISSION



Project Location Plan

SCALE None

**APPLICANT INFORMATION****1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.**

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.

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
See attached Exhibit B				

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

YES  NO

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If yes, give name of business and liquor license number \_\_\_\_\_

**NEBRASKA LIQUOR**

a) Submit a copy of the sales agreement

**CONTROL COMMISSION**

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

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

YES  NO

If yes, give name and license number PGC Southport Inc. d/b/a Pizza Gourmet; License #083019

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

YES  NO

If yes:

a) Attach temporary operating permit (T.O.P.) (form 125)

b) T.O.P. will only be accepted at a location that currently holds a valid liquor license.

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) The majority shareholder, James DeRouchey, will be personally loaning money to the applicant.

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PIZZAWEST, INC.

NEBRASKA LIQUOR  
CONTROL COMMISSION

**Exhibit B**  
**To Application for Liquor License-Retail**

In the interest of full disclosure, to the extent that "charge" includes traffic-related infractions, the shareholders and officers identified in this application acknowledge that they have received tickets for minor traffic-related infractions (i.e., speeding), the exact nature, locations and dates of which, however, are not subject to recollection at this time. Additional investigation can be completed and information can be provided to the Commission upon request.

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)

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No silent partners

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CONTROL COMMISSION

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.

8. Is premise to be licensed within 150 feet of a church, school, hospital, home for the aged or 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 (Neb. Rev. Stat. 53-177)(1)

9. Is anyone listed on this application a law enforcement officer?

YES  NO

If yes, list the person, the law enforcement agency involved and the person's exact duties

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

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

First American Bank, 120th and Giles, La Vista, NE; Authorized Signatories: James DeRouchey & Jeffrey Evans

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.

See liquor license history for Jeffrey Evans attached hereto as Exhibit C

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PIZZAWEST, INC.

NEBRASKA LIQUOR  
CONTROL COMMISSION

**Exhibit C**  
**To Application for Liquor License-Retail**

The applicant for Manager of the licensed premises, Jeffrey Evans, obtained a personal liquor license through the city of Kansas City, MO in approximately January 2008 while employed by his previous employer, Famous Dave's BBQ Restaurant of Kansas City, as required by each individual employee under applicable law; the license number for the Famous Dave's BBQ Restaurant of Kansas City is unknown. Mr. Evans has also been involved in the application process for temporary liquor licenses for the College World Series in Omaha through his previous employer, Famous Dave's BBQ Restaurant of Omaha, but based upon information and belief his name was not included on the temporary liquor license application documents.

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:

- a) Individual, applicant only (no spouse)
- b) Partnership, all partners (no spouses)
- c) Corporation, manager only (no spouse) as listed on form 3c
- d) Limited Liability Company, manager only (no spouse) as listed on form 3c

Applicant Name	Date Trained (mm/yyyy)	Name of program where trained (name, city)
Jeffrey Evans	06/03 - 09/08	Famous Dave's Kansas City (on the job training & experience)
Jeffrey Evans	09/08 - 03/13	Famous Dave's Bellevue (on the job training & experience)

13. If the property for which this license is sought 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 show title or lease held in name of applicant as owner or lessee in the individual(s) or corporate name for which the application is being filed.**

Lease: expiration date February 28, 2018 with Option Period extending through February 29, 2020  
 Deed  
 Purchase Agreement

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14. When do you intend to open for business? May 1, 2013

NEBRASKA LIQUOR  
CONTROL COMMISSION

15. What will be the main nature of business? Restaurant (pizza and related foods)

16. What are the anticipated hours of operation? Sun-Thur: 11am-11pm; Fri-Sat: 11am-12am

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 AND SPOUSE MUST COMPLETE					
APPLICANT: CITY & STATE	YEAR FROM		SPOUSE: CITY & STATE	YEAR FROM	
James DeRouchey: Omaha, NE	2001	Present	Mary DeRouchey: Omaha, NE	2001	Present
Jeffrey Evans: Omaha, NE	2008	Present	N/A		
Jeffrey Evans: Shawnee, KS	2007	2008			
Jeffrey Evans: Kansas City, MO	2006	2007			
Jeffrey Evans: Lenexa, KS	2005	2006			

Jeffrey Evans: Lawerence, KS 2003 2005  
If necessary attach a separate sheet.

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.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). See guideline for required signatures.  
<http://www.lcc.ne.gov/pdfs/New%20Application%20Guideline.pdf>

Signature of Applicant

Signature of Applicant

Signature of Spouse

Signature of Spouse

Signature of Applicant

Signature of Spouse

Signature of Applicant

Signature of Spouse

Signature of Applicant

Signature of Spouse

#### ACKNOWLEDGEMENT

State of Nebraska

County of Douglas

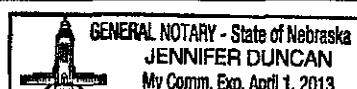
March 8, 2013

date

by James DeRouchey, Mary DeRouchey and Jeffrey Evans

name of person acknowledged

Affix Seal



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CONTROL COMMISSION

FORM 100  
REV 6/2/2013  
PAGE 8

In compliance with the ADA, this application is available in other formats for persons with disabilities.  
A ten day advance period is required in writing to produce the alternate format.

**MANAGER APPLICATION  
INSERT - FORM 3c**

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.ne.gov](http://www.lcc.ne.gov)

Office Use

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**Corporate manager, including their spouse, are required to adhere to the following requirements:**

- 1) Must be a citizen of the United States
- 2) Must be a Nebraska resident (Chapter 2 – 006) and must provide proof of voter registration in the State of Nebraska
- 3) Must provide a copy of one of the following: state issued US birth certificate, naturalization paper or US passport
- 4) Must submit fingerprints (unless a non-participating spouse) (2 cards per person) and fees of \$38 per person, made payable to Nebraska State Patrol
- 5) Must be 21 years of age or older
- 6) May be required to take a training course

**Corporation/LLC Information**

Name of Corporation/LLC: PizzaWest, Inc.

**Premise Information**

Premise License Number:

(if new application leave blank)

Premise Trade Name/DBA: Pizza West

Premise Street Address: 12040 McDermott Plaza, Suite 300

City: La Vista

State: NE

Zip Code: 68128

Premise Phone Number: New Premises Telephone Number is Pending; Current Corporate Number: (402) 201-9666

The individual whose name is listed as a corporate officer or managing member as reported on insert form 3a or 3b or listed with the Commission. Click on this link to see authorized individuals.  
[http://www.lcc.ne.gov/license\\_search/licsearch.cgi](http://www.lcc.ne.gov/license_search/licsearch.cgi)



**CORPORATE OFFICER/MANAGING MEMBER SIGNATURE  
(Faxed signatures are acceptable)**

**Manager's information must be completed below. PLEASE PRINT CLEARLY**

Gender:  MALE

FEMALE

Last Name: Evans

First Name: Jeffrey

MI: J

Home Address (include PO Box if applicable): 2317 South 123rd Avenue

City: Omaha

County: Douglas

Zip Code: 68144

Home Phone Number: (402) 250-9278

Business Phone Number: N/A

Social Security Number: \_\_\_\_\_

Drivers License Number & State: \_\_\_\_\_

Date Of Birth: \_\_\_\_\_

Place Of Birth: Omaha, NE

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

YES

NO

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**Spouse's information**

NEBRASKA LIQUOR  
CONTROL COMMISSION

Spouses Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Drivers License Number & State: \_\_\_\_\_

Date Of Birth: \_\_\_\_\_ Place Of Birth: \_\_\_\_\_

**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	2008	Present	N/A		
Shawnee, KS	2007	2008			
Kansas City, MO	2006	2007			

Lenexa, KS

2005 2006

Lawrence, KS

2003 2005

**MANAGER'S LAST TWO EMPLOYERS**

YEAR FROM	TO	NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
2008	2013	Famous Dave's Bellevue	Kelly Yakopec	(402) 558-3333
2003	2008	Famous Dave's Kansas City	Matt Diamond	(402) 391-9007

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. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

YES  NO

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

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Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (city & state)	Description of Charge	Disposition
See attached Exhibit A				MERRASKA LIQUOR CONTROL COMMISSION

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.  
See attached Exhibit B

3. 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. Have you enclosed the required fingerprint cards and **PROPER FEES** with this application?  
(Check or money order made payable to the Nebraska State Patrol for \$38.00 per person)  
 YES  NO

5. List any alcohol related training and/or experience (when and where).  
See attached Exhibit C

**PIZZAWEST, INC.**

**Exhibit A**  
**To Manager Application Insert**

In the interest of full disclosure, to the extent that "charge" includes traffic-related infractions, the named manager acknowledges that he has received tickets for minor traffic-related infractions (i.e., speeding), the exact nature, locations and dates of which, however, are not subject to recollection at this time. Additional investigation can be completed and information can be provided to the Commission upon request.

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**NEBRASKA LIQUOR  
CONTROL COMMISSION**

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PIZZAWEST, INC.

MAR 15 2013

Exhibit B  
To Manager Application Insert

NEBRASKA LIQUOR  
CONTROL COMMISSION

The applicant for Manager of the licensed premises, Jeffrey Evans, obtained a personal liquor license through the city of Kansas City, MO in approximately January 2008 while employed by his previous employer, Famous Dave's BBQ Restaurant of Kansas City, as required by each individual employee under applicable law; the license number for the Famous Dave's BBQ Restaurant of Kansas City is unknown. Mr. Evans has also been involved in the application process for temporary liquor licenses for the College World Series in Omaha through his previous employer, Famous Dave's BBQ Restaurant of Omaha, but based upon information and belief his name was not included on the temporary liquor license application documents.

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**Exhibit C**  
**To Manager Application Insert**

NEBRASKA LIQUOR  
CONTROL COMMISSION

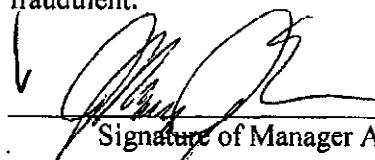
The applicant for Manager of the licensed premises, Jeffrey Evans, obtained extensive on-the-job experience and training, as well as attended many alcohol-related training seminars, during his approximately 9.5 years as an employee of Famous Dave's BBQ Restaurants in both Kansas City, MO and Omaha, NE.

**PERSONAL OATH AND CONSENT OF INVESTIGATION**

The above individual(s), being first duly sworn upon oath, deposes and states that the undersigned is the applicant and/or spouse of applicant who makes the above and foregoing application that said application has been read and that the contents thereof and all statements contained therein are true. If any false statement is made in any part of this application, the applicant(s) shall be deemed guilty of perjury and subject to penalties provided by law. (Sec §53-131.01) Nebraska Liquor Control Act.

The undersigned applicant hereby consents to an investigation of his/her background including all records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant and spouse waive any rights or causes of action that said applicant or spouse may have against the Nebraska Liquor Control Commission and any other individual disclosing or releasing said information to the Nebraska Liquor Control Commission. If spouse has NO interest directly or indirectly, a spousal affidavit of non participation may be attached.

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.



Signature of Manager Applicant

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Signature of Spouse

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NEBRASKA LIQUOR  
CONTROL COMMISSION

ACKNOWLEDGEMENT

State of Nebraska

County of Douglas

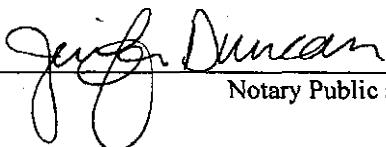
March 8<sup>th</sup>, 2013

date

The foregoing instrument was acknowledged before me this

by Jeffrey Evans

name of person acknowledged



Notary Public signature

Affix Seal



In compliance with the ADA, this application is available in other formats for persons with disabilities. A ten day advance period is required in writing to produce the alternate format.

**MANAGER APPLICATION**  
**INSERT - FORM 3c**

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.ne.gov](http://www.lcc.ne.gov)

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**Manager must:**

- Complete all sections of the application – make sure it is signed by a **corporate officer\***  
\*corporate officer must be an individual on file with the Liquor Control Commission
- Include two signed, completed fingerprint cards with a check for \$38 payable to the NE State Patrol (unless you have fingerprints on file with us that are less than two years old, you must indicate that on the application)
- Provide a copy of one of the following: US birth certificate, naturalization papers or US passport (even if you have provided this before)
- Be a registered voter in the State of Nebraska

**Spouse who will not participate in the business, spouse must:**

- Sign the application
- Complete the Spousal Affidavit of Non Participation Insert (must be notarized). The non-participating spouse completes the top half, the manager completes the bottom half
- Need not answer question #1 of the application

**Spouse who will participate in the business, the spouse must:**

- Sign the application
- Include two signed, completed fingerprint cards with a check for \$38 payable to the NE State Patrol (unless you have fingerprints on file with us that are less than two years old, you must indicate this on the application)
- Provide a copy of one of the following: birth certificate, naturalization papers or US passport (even if you have provided this before)
- Be a registered voter in the state of Nebraska
- Spousal Affidavit of Non Participation Insert not required

TYPE OR PRINT IN  
PERMANENT INK  
SEE INSTRUCTION  
MANUAL

TRIPPLICATE--to be  
given to this child's parent.

STATE OF NEBRASKA--DEPARTMENT OF HEALTH

BUREAU OF VITAL STATISTICS

126-

CERTIFICATE OF LIVE BIRTH

CHILD	FIRST	MIDDLE	LAST	SEX	DATE OF BIRTH (Month, Day, Year)	HOUR
	Jeffrey	Joseph	EVANS	2. Male	3a. March 31, 1983	3b. 9:29A M
HOSPITAL--NAME (If not in hospital, give street and number)				4a. INSIDE CITY LIMITS (Specify Yes or No)	4b. CITY, TOWN, OR LOCATION OF BIRTH	4c. COUNTY OF BIRTH
4d. BURGESS MERCY HOSPITAL				4b. Yes	4c. Omaha	4d. Douglas
I certify that the above information concerning this child is true to the best of my knowledge and belief.				5a. DATE SIGNED (Month, Day, Year)		NAME AND TITLE OF ATTENDANT (IF OTHER THAN CERTIFIER)
CERTIFIER	5a. (Signature)				5b.	5c.
5a. R. Taylor M.D.				5b. MAILING ADDRESS (STREET OR R.F.D. NO., CITY OR TOWN, STATE, ZIP)		5c.
5a. Registrar--Signature				5b. 2705 South 87th Street Omaha, Ne. 68124		5c. DATE RECEIVED BY REGISTRAR MONTH DAY YEAR
MOTHER	7a. MOTHER--MAIDEN NAME	FIRST	MIDDLE	LAST	7b. AGE (At time of this birth)	CITY AND STATE OF BIRTH (If not in U.S.A., Name Country)
	7a. Cynthia	7b. Jeannie	7c. Miller	7d. 29	7e. Omaha, Nebraska	7f. STREET AND NUMBER
7a. RESIDENCE--STATE   COUNTY   CITY, TOWN, OR LOCATION, (Include zip code)				7b. INSIDE CITY LIMITS (Specify Yes or No)	7c. Yes	7d. 2165 North 98th Avenue
FATHER	10. FATHER--NAME	FIRST	MIDDLE	LAST	11b. AGE (At time of this birth)	CITY AND STATE OF BIRTH (If not in U.S.A., Name Country)
	10a. Martin	10b. Gerard	10c. Evans	10d. 31	11b. Omaha, Nebraska	11c. RELATION TO CHILD
11a. I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief. (Signature of Parent) 11b. other information				11c. Mother		

Warning: It is a felony to knowingly give false information for vital records.  
Penalty upon conviction \$10,000.00 fine or five years imprisonment or both.

The original of the above certificate is required to be filed with the Bureau of Vital  
Statistics, P.O. Box 95007, Lincoln, Nebraska 68509, as permanent depository.

A certified copy of the original birth certificate may be obtained by you upon application  
and the statutory fee of \$3.00 in cash or money order. Please supply the  
following identifying information: CHILD'S NAME, DATE OF BIRTH, PLACE OF BIRTH,  
FATHER'S NAME, MOTHER'S MAIDEN NAME, NAME OF ATTENDING PHYSICIAN.

Copies to serve all purposes must be certified by office authorized to file such  
records.

In the case of additions or corrections to be made, notify the Bureau of Vital  
Statistics within thirty days.

NOTE: IMPORTANT INFORMATION FOR YOUR CHILD'S HEALTH ON REVERSE SIDE.

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CONTROL COMMISSION



Search Your Voter  
Registration  
Information



Search Your Polling  
Place



Search Your  
Provisional Ballot



Search Your  
Absentee Ballot

#### Registrant Detail

Name	Jeffrey Evans
Party	Republican
Polling Place	Faith Christian Church 2201 South 132nd Street Fellowship Hall ... HNDCP. USE NORTH ENTRANCE Omaha, NE 68144

#### Districts

District Name	District Type
Omaha Public Schools	School District
Metro Com College Dist 3	Community College District
U.S. Congressional District 2	U.S. Congressional District
Appeals Court Judge Dist 4	Judge of Appeals Court Dist.
County Judge Dist 4	Judge of County Court Dist.
District Judge, Dist 4	Judge of District Court Dist.
Juv Crt Judge, Douglas Co.	Judge of Juvenile Court
Supreme Court Judge Dist 4	Judge of Supreme Court Dist.
Legislative District 20	Legislative District
Papio NRD SubD 4	Natural Resources District
Omaha PPD SubD Metro	Public Power District
PSC District 2	Public Service Comm District
Board of Regents District 2	Board of Regents
Omaha City Council Ward 6	City Council (Ward)
County Commissioner Dist 04	County Board (Commiss./Superv)
Metropolitan Utilities Dist	Utilities District
Omaha Public School Subdist 6	School Board Ward
Mayor of Omaha	Mayor
State Board of Education Dist 2	State Board of Education
Learning Community 1 - Dist 3	Learning Community Coordinating Council

[Información en español](#)

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VoterView 2.3.996.0

**APPLICATION FOR LIQUOR LICENSE  
CORPORATION  
INSERT - FORM 3a**

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.ne.gov](http://www.lcc.ne.gov)

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NEBRASKA LIQUOR  
CONTROL COMMISSION

**Officers, directors and stockholders holding over 25% shares of stock, including spouses, are required to adhere to the following requirements:**

- 1) All officers, directors and stockholders must be listed
- 2) President/CEO and stockholders holding over 25% and their spouse(s) (if applicable) must submit fingerprints (2 cards per person)
- 3) Officers, directors and stockholders holding over 25 % shares of stock and their spouse (if applicable) must sign the signature page of the Application for License form 100 (even if a spousal affidavit has been submitted)

**Attach copy of Articles of Incorporation (Articles must show barcode receipt by Secretary of States Office)**

Name of Registered Agent: Nicholas T. Dafney

**Name of Corporation that will hold license as listed on the Articles**

PizzaWest, Inc. # 10172924

Corporation Address: 12040 McDermott Plaza, Suite 300

City: Omaha State: NE Zip Code: 68128

Corporation Phone Number: (402) 201-9666 Fax Number N/A

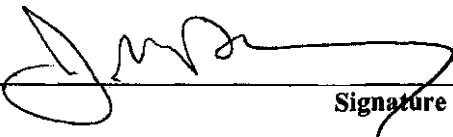
Total Number of Corporation Shares Issued: 1,000

**Name and notarized signature of President/CEO (Information of president must be listed on following page)**

Last Name: DeRouchey First Name: James MI: M

Home Address: 10853 South 166th Street City: Omaha

State: NE Zip Code: 68136 Home Phone Number: (402) 201-9666



**Signature of President/CEO**

**ACKNOWLEDGEMENT**

State of Nebraska  
County of Douglas The foregoing instrument was acknowledged before me this

March 8th, 2013

by James DeRouchey

name of person acknowledge

Affix Seal	GENERAL NOTARY - State of Nebraska JENNIFER DUNCAN My Comm. Exp. April 1, 2013
------------	--

List names of all officers, directors and stockholders including spouses (even if a spousal affidavit has been submitted)

Last Name: DeRouchey First Name: James MI: M Prints

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: Director, President & Treasurer Number of Shares 900

Spouse Full Name (indicate N/A if single): Mary DeRouchey Prints

Spouse Social Security Number: 504-90-8070 Date of Birth: 10/16/1968

Last Name: DeRouchey First Name: Mary MI:  Prints

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: Director & Secretary Number of Shares zero

Spouse Full Name (indicate N/A if single): James M. DeRouchey Prints

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Last Name: Evans First Name: Jeffrey MI: J Prints

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: Director & Vice President Number of Shares 100

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ RECEIVED

Title: \_\_\_\_\_ Number of Shares MAR 15 2013

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ NEBRASKA LIQUOR  
CONTROL COMMISSION

List names of all officers, directors and stockholders including spouses (Even if a spousal affidavit has been submitted)

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ **RECEIVED**

Title: \_\_\_\_\_ Number of Shares \_\_\_\_\_ *MAR 15 2013*

Spouse Full Name (indicate N/A if single): \_\_\_\_\_ *NEBRASKA RAILROAD*

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ *COMMISSION*

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: \_\_\_\_\_ Number of Shares \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: \_\_\_\_\_ Number of Shares \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Title: \_\_\_\_\_ Number of Shares \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

**Is the applying corporation controlled by another corporation/company?**

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YES       NO

MAR 15 2013

If yes, provide the following:

- 1) Name of corporation \_\_\_\_\_
- 2) Supply an organizational chart of the controlling corporation named above
- 3) Controlling corporation MUST be registered with the Nebraska Secretary of State, copy of articles must be submitted with application §53-126

NEBRASKA LIQUOR

CONTROL COMMISSION

**Indicate the Corporation'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 # \_\_\_\_\_

In compliance with the ADA, this corporation insert form 3a is available in other formats for persons with disabilities.  
A ten day advance period is requested in writing to produce the alternate format.

# Nebraska Secretary of State

- John A. Gale

## Business Services

[Home](#) » [Corporation and Business Entity Searches](#)

Mon Mar 18 08:38:26 2013

For Letters of Good Standing (\$6.50), Certificates of Good Standing (\$10.00), and/or images (\$0.45 per page) of documents filed with the Secretary of State please click the corresponding service below:



[Back to Search Results](#)

**Pay Services:**

[Online Images of Filed Documents](#) | [Good Standing Documents](#)

Entity Name	SOS Account Number		
PIZZAWEST, INC.	10172924		
Principal Office Address	Registered Agent and Office Address		
No address on file	NICHOLAS T. DAFNEY SUITE 300 8712 WEST DODGE ROAD OMAHA, NE 681143419		
Nature of Business	Entity Type	Date Filed	Account Status
Not Available	Domestic Corp Qualifying State: NE	Feb 14 2013	Active

**Pay Services:**

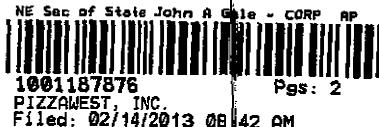
Click on the pay service items you wish to view. Your Nebraska Online account will be charged the indicated amount for each item you view.

**- Images of Filed Documents**

If an item is a link, the document may be retrieved online, otherwise you must contact the Secretary of State's office to obtain a copy of the document.

Code	Trans	Date	Price
AP	Articles Perpetual	Feb 14 2013	\$0.90 = 2 page (s) @ \$0.45 per page

**- Letter of Good Standing**



ARTICLES OF INCORPORATION  
OF  
PIZZAWEST, INC.

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NEBRASKA LIQUOR

CONTROL COMMISSION

Acting as the incorporator of a corporation under the Business Corporation Act of Nebraska, I adopt the following Articles of Incorporation for such corporation:

**ARTICLE I**  
NAME

The corporate name for the corporation is PizzaWest, Inc.

**ARTICLE II**  
DURATION

The period of duration of the corporation is perpetual.

**ARTICLE III**  
AUTHORIZED SHARES

The number of shares that the corporation is authorized to issue is 10,000, all of which shall be Common Stock. The par value of each of such shares shall be \$1.00.

**ARTICLE IV**  
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation is 8712 West Dodge Road, Suite 300, Omaha, Douglas County, Nebraska, 68114-3419; and the name of the initial registered agent of the corporation at such office is Nicholas T. Dafney.

**ARTICLE V**  
NAME AND ADDRESS OF INCORPORATOR

The name and street address of the incorporator of the corporation are as follows:

<u>Name</u>	<u>Street Address</u>
Nicholas T. Dafney	8712 West Dodge Road Suite 300 Omaha, Nebraska 68114-3419

**ARTICLE VI**  
LIABILITY OF DIRECTORS

A director of the corporation shall have no personal liability to the corporation or to the shareholders of the corporation for money damages for any action taken, or for any failure to take any action, as a director of the corporation, except liability for (a) the amount of a financial

benefit received by such director to which such director is not entitled, (b) an intentional infliction of harm on the corporation or the shareholders of the corporation, (c) a violation of Section 21-2096 of the Business Corporation Act of Nebraska, and (d) an intentional violation of criminal law. If the Business Corporation Act of Nebraska hereafter is amended to authorize further limitations on or eliminations of the personal liability of a director of a corporation incorporated under the Business Corporation Act of Nebraska, then the personal liability of each director of the corporation shall be limited or eliminated to the fullest extent permitted by the Business Corporation Act of Nebraska as so amended from time to time.

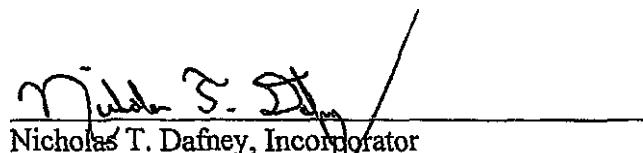
#### ARTICLE VII INDEMNIFICATION OF DIRECTORS

The corporation shall, and by virtue of the provisions of this Article VII is obligated to, indemnify each director of the corporation to the fullest extent permitted by law in accordance with Section 21-20,103 of the Business Corporation Act of Nebraska for liability, as defined in Section 21-20,102 of the Business Corporation Act of Nebraska, to any person for any action taken, or any failure to take any action, as a director of the corporation except liability for (a) receipt of a financial benefit to which such director is not entitled, (b) an intentional infliction of harm on the corporation or the shareholders of the corporation, (c) a violation of Section 21-2096 of the Business Corporation Act of Nebraska, or (d) an intentional violation of criminal law. The foregoing provisions of this Article VII shall be deemed to satisfy the requirements for authorization referred to in Subsection (3) of Section 21-20,105 and in Subsection (3) of Section 21-20,107 of the Business Corporation Act of Nebraska and shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with Section 21-20,105 of the Business Corporation Act of Nebraska to the fullest extent permitted by law.

#### ARTICLE VIII PREEMPTIVE RIGHTS

The corporation elects not to have preemptive rights.

IN WITNESS WHEREOF, I have signed these Articles of Incorporation this 11<sup>th</sup> day of February, 2013.

  
Nicholas T. Dafney, Incorporator

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NEBRASKA LIQUOR  
CONTROL COMMISSION

THIS LEASE (this "Lease") is made and entered into this 11<sup>th</sup> day of March 2013, by and between Southport Center, LLC ("Landlord"), a Nebraska limited liability company, its successors and assigns, and PizzaWest, Inc. ("Tenant"), a Nebraska corporation, upon the following terms and conditions:

**ARTICLE I  
FUNDAMENTAL LEASE PROVISIONS**

Each of the following subparagraphs is individually referred to in this Lease as a "Fundamental Lease Provision." Each reference in this Lease to a Fundamental Lease Provision shall be construed to incorporate all of the terms of such Fundamental Lease Provision. In the event of any conflict between a Fundamental Lease Provision and any other provision of this Lease, the Fundamental Lease Provision shall govern.

- (a) Landlord: Southport Center, LLC, a Nebraska limited liability company, its successors or assigns
- (b) Landlord's Address for Notices and Rent Payments:  
Southport Center, LLC  
c/o World Group, LLC  
780 North 114<sup>th</sup> Street  
Omaha, NE 68154
- (c) Tenant: PizzaWest, Inc., a Nebraska corporation
- (d) Tenant's Address for Notices:  
PizzaWest, Inc.  
c/o James M. DeRouchey  
10853 South 166<sup>th</sup> Street  
Omaha, NE 68136
- (e) Tenant's Trade Name: PizzaWest
- (f) Address of Premises: 12040 McDermott Plaza, Suite 300, La Vista, NE 68128
- (g) Name, Address and Legal Description of Shopping Center Development: Southport Center, 12112 McDermott Plaza, Lot 4, Southport East Replat Six, La Vista, Sarpy County, Nebraska
- (h) Approximate Number of Square Feet in Premises: 4,815
- (i) The term of this Lease ("Term") shall be sixty (60) calendar months, including the calendar month during which the Commencement Date shall fall which shall be considered a full calendar month for purposes of calculating the Term notwithstanding the number of days in such month. Each consecutive twelve calendar month period during the Term is sometimes referred to in this Lease as a Lease Year.

(j) Annual Base Rent Per Square Foot: The Base Rent for the first Lease Year of the Term will be the sum of the following monthly installments: [REDACTED] per square foot for calendar months 1 through 3 of the first Lease Year; [REDACTED] per square foot for calendar months 4 through 8 of the first Lease Year; and [REDACTED] per square foot for calendar months 9 through 12 of the first Lease Year. The Base Rent for the second Lease Year of the Term will be [REDACTED] per square foot per annum. Thereafter, for each Lease Year during the Term, including the Option Periods (as defined in Section 35.2), if applicable, the Base Rent for each Lease Year will be [REDACTED] of the Base Rent for the immediately preceding Lease Year of the Term.

(k) Initial estimated Annual Common Areas Charge: [REDACTED] per square foot

(l) Initial estimated Insurance Contribution: [REDACTED] per square foot

(m) Initial estimated Tax Contribution: [REDACTED] per square foot

(n) Permitted Use of Premises: Pizza restaurant serving beer, wine and liquor provided sales of alcoholic beverages account for no more than 40% of total sales.

(o) Security Deposit: [REDACTED]

(p) Delivery of Premises: Landlord will deliver the Premises to Tenant as of the date (the "Commencement Date") of the duly authorized full and complete execution and delivery of this Lease.

(q) Tenant Fraction: 4,815/21,391 (22.51%)

(r) Approximate Number of Square Feet in the Shopping Center: 21,391

(s) Tenant's Allowance: An allowance (the "Tenant Allowance") of [REDACTED] will be paid by Landlord to Tenant for the construction and completion of the Tenant Work and the Initial Tenant Improvements, as each term is defined in Section 34.1. All Tenant Work and Initial Tenant Improvements are hereby deemed to be approved by Landlord to the extent required by Section 34.1, notwithstanding any other provision in this Lease to the contrary. Landlord's obligation to pay the Tenant Allowance shall be subject to the conditions set forth in Section 34.2.

(t) Payment of Operating Expenses: Subject to the remaining provisions of this Lease, commencing as of the Commencement Date, Tenant shall pay in addition to the Base Rent as additional rent the Tax Contribution, the Tenant's Insurance Contribution and the Tenant's Common Area Charge, as each term is defined in and in accordance with Articles VI, VII and VIII.

## ARTICLE II PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the premises located in the spaces shown in red on **Exhibit A** (the "Premises"). The address of the Premises is set forth in Fundamental Lease Provision Article I, subsection (f). As indicated on **Exhibit A**, the Premises are a part

of the Shopping Center legally described and identified in Fundamental Lease Provision Article I, subparagraph (g), and shown on Exhibit B. The Premises contains the approximate number of square feet of interior floor space that is set out in Fundamental Lease Provision Article I, subparagraph (h). The use and occupancy by Tenant of the Premises shall include the irrevocable non-exclusive license during the Term (as extended by any Option Period) for Tenant (including its officer's agents, employees, contractors, subcontractors, invitees and licensees; collectively "Tenant Representatives") to exclusively use and occupy the Patio Area (as defined in Section 35.3 and identified on Exhibit C), and to use and occupy, subject to the provisions of Article VIII and in common with others entitled thereto, the Common Areas of the Shopping Center. "Common Areas" shall include parking areas, loading facilities, truck service-ways, service corridors, landscaped areas, streets, sidewalks, driveways and such other areas as may be so designated from time to time by Landlord for the common use of tenants in the Shopping Center. Tenant shall have exclusive use of one (1) parking stall immediately adjacent to the Patio Area from 5:00 p.m. Monday through Friday and all day Saturday and Sunday for takeout orders to be picked up by Tenant's customers, and Landlord hereby agrees that Tenant may post signs designating such parking stall as being for the exclusive use of Tenant and Tenant's customers during such hours.

### **ARTICLE III TERM**

Unless sooner terminated pursuant to the provisions of this Lease, this Lease shall be for the Term set forth in Fundamental Lease Provision Article I, subparagraph (i). The Commencement Date of the Term is the date identified in Fundamental Lease Provision Article I, subparagraph (p). If the Commencement Date occurs on a day other than the first day of a calendar month, or if the termination of this Lease occurs on a day other than the last day of a calendar month, then the Base Rent and additional rent for such fractional month will be prorated on a daily basis.

### **ARTICLE IV USE OF PREMISES**

The Premises are leased to Tenant, and are to be used and occupied by Tenant, for the permitted use set forth in Fundamental Lease Provision Article I, subparagraph (n) and for no other purpose. Tenant agrees to use the Premises in such a manner as to not to unreasonably adversely interfere with the rights of other tenants in the Shopping Center. During the Term, Tenant shall comply with all applicable governmental laws, ordinances and regulations applicable to its operations on the Premises and, subject to the obligations of the Landlord under this Lease, Tenant shall (i) maintain and keep the Premises in a neat, clean and sanitary condition, and (ii) use reasonable precaution to prevent waste, damage or injury to the Premises by Tenant and Tenant's Representatives.

### **ARTICLE V RENT**

**Section 5.1. Base Rent.** Tenant agrees to pay annual Base Rent for each Lease Year during the Term and the Option Period, as defined in Section 35.2, if applicable, in the amounts set forth in Fundamental Lease Provision Article I, subparagraph (j). Base Rent shall be paid to Landlord at the address set forth in Fundamental Lease Provision Article I, subparagraph (b), or at any other place Landlord may designate by no less than thirty (30) days written notice to Tenant.

Base Rent shall be paid in monthly installments during the Term as follows:

For the period March 12, 2013 through June 11, 2013, the sum of [REDACTED] per calendar month; and  
For the period June 12, 2013 through October 31, 2013, the sum of [REDACTED] per calendar month; and

For the period November 1, 2013, through February 28, 2014, the sum of [REDACTED] per calendar month; and

For the period from March 1, 2014, to February 28, 2015, the sum of [REDACTED] per calendar month; and

For the period from March 1, 2015, to February 29, 2016, the sum of [REDACTED] per calendar month; and

For the period from March 1, 2016, to February 28, 2017, the sum of [REDACTED] per calendar month; and

For the period from March 1, 2017, to February 28, 2018, the sum of [REDACTED] per calendar month.

Base Rent shall be paid in monthly installments during the Option Period, if applicable, as follows:

For the period from March 1, 2018, to February 28, 2019, the sum of [REDACTED] per calendar month; and

For the period from March 1, 2019, to February 29, 2020, the sum of [REDACTED] per calendar month.

**Section 5.2. Other Payments.** Base Rent and those amounts to be paid by Tenant as additional rent are sometimes collectively referred to in this Lease as "Rent". Additional rent and all other amounts required to be paid by Tenant under this Lease shall be paid to Landlord at the address specified for payment of Base Rent. All payments of Rent shall be made on the first date of each calendar month during the Term in advance. All other amounts required to be paid by Tenant under this Lease shall be paid when due. In the event of nonpayment by Tenant of any amounts due under this Lease, whether or not designated as Rent, Landlord shall have all the rights and remedies provided in this Lease or by law for failure to pay Rent. All amounts due and payable by Landlord or Tenant under his Lease shall be made in lawful money of the United States.

**Section 5.3. Late Charge.** If Tenant fails to pay any Rent or any other amounts required to be paid by Tenant under this Lease on or before the fifth day after such the same are due, Tenant agrees to pay Landlord a late charge equal to [REDACTED] of the amount due per calendar month.

**Section 5.4. Security Deposit.** As partial consideration for the execution of this Lease, Tenant has delivered to Landlord the sum set forth in Fundamental Lease Provision Article I, subparagraph (o) as a Security Deposit. The Security Deposit will be returned to Tenant at the expiration or earlier termination of the Term if as of such date there is no continuing Event of Default (as defined in Article XXV).

**Section 5.5. Tenant Fraction.** To determine the Tenant Fraction identified in Fundamental Lease Provision Article I, subsection (f), the parties used, as the numerator, the total number of square feet of floor space contained in the Premises and, as the denominator, the total number of square feet of leasable floor space contained in all of the buildings in the Shopping Center. The Tenant Fraction shall

be adjusted in the event additional square feet of leasable floor space becomes available at the Shopping Center, whether by reason of additions, betterments, reduction of Common Areas or for any other reason.

## ARTICLE VI REAL ESTATE TAXES AND ASSESSMENTS

**Section 6.1.** Landlord agrees to pay, prior to delinquency, all general ad valorem real estate taxes, including all installments of special taxes, assessments or levies of any kind however denominated, payable during the Term on the land and improvements constituting the Shopping Center, including the Common Areas (collectively, the "Taxes"). Tenant shall pay to Landlord, as additional rent, an amount equal to the Tenant Fraction of the Taxes that become due and delinquent in any calendar year during the Term (the "Tenant's Tax Contribution"). Such payment shall be made in accordance with Section 6.2. Tenant's Tax Contribution shall be prorated and shall therefore apply only to that portion of a Lease Year falling within such calendar year. If any portion of the Shopping Center is assessed for real estate tax purposes as a separate parcel and all Taxes on such separate parcel are entirely payable by any person or entity other than Landlord, then the Taxes on such separate parcel shall not be included in the Taxes to which Tenant's Tax Contribution shall apply. In such event the denominator of Tenant Fraction for purposes of calculating Tenant's Tax Contribution only shall be reduced by the number of square feet of leasable floor space contained in the building or buildings located on such separate parcel. Notwithstanding any provision in this Lease to the contrary, to the extent any Taxes are payable by any person or entity, other than Landlord or any person or entity acting on behalf of Landlord, the amount of the Taxes paid by such person or entity shall not be used for purposes of determining Tenant's Tax Contribution, but the Tenant Fraction shall not be modified for such purposes.

**Section 6.2.** Tenant shall pay Tenant's Tax Contribution in monthly installments equal to one-twelfth (1/12) of the estimated Tenant's Tax Contribution for the then current calendar year, which estimated amount shall be based upon the tax statement for the Shopping Center applicable to the calendar year in which such Taxes shall become due and delinquent. Other than the estimated Initial Tenant's Tax Contribution, notice of the estimated Tenant's Tax Contribution for each Lease Year shall be delivered by Landlord to Tenant on or before January 1 of the calendar year in which the Taxes become due and delinquent. Within 30 days after the end of each calendar year during the Term, Tenant shall pay to Landlord any unpaid portion of Tenant's Tax Contribution for that portion of the Lease Year falling in the immediately preceding calendar year during the Term, but Tenant shall be entitled to a credit (against the next ensuing estimated Tenant's Tax Contribution) from Landlord for any excess Tenant's Tax Contribution actually paid by Tenant for such calendar year. Any excess Tenant's Tax Contribution paid during the last Lease Year shall be paid by Landlord to Tenant within fifteen (15) days after Landlord is reasonably able to calculate the amount of any such excess. The estimated Tenant's Tax Contribution for the first calendar year falling in the first Lease Year is set forth in Fundamental Lease Provision Article I, subparagraph (m).

**Section 6.3** Tenant agrees to pay when due all personal property taxes of any kind which during the Term of this Lease may be assessed against any personal property, including any trade fixtures or leasehold improvements, that constitute the personal property of Tenant that at any time shall be located in or about the Premises; provided, however, that this provision shall not be construed to mean that Tenant shall be separately liable for or responsible for any increase in Taxes applicable to the Shopping Center that may result from Tenant Work, Initial Tenant Improvements or any alterations, additions or improvements to the Premises made by Tenant and approved by Landlord, including but not limited to the Equipment, as that Term is defined in Section 35.4, and all of such Taxes shall be treated

the same as any other Taxes of the Shopping Center to which the Tenant's Tax Contribution shall apply by application of Section 6.1 without any modification of the Tenant Fraction.

#### **ARTICLE VII FIRE AND EXTENDED COVERAGE**

**Section 7.1.** Landlord agrees to purchase and maintain, or cause to be purchased and maintained, during the Term fire insurance with an extended coverage endorsement, including, but not limited to, windstorm and tornado damage to the Premises, with a responsible insurance company or companies authorized to do business in the State of Nebraska. Such insurance shall be obtained in the amount of the replacement value of the Shopping Center excluding trade fixtures.

**Section 7.2.** Tenant shall pay to Landlord, as additional rent, an amount equal to the Tenant Fraction of the premiums actually paid by or on behalf of Landlord for the insurance coverage referred to in Section 7.1 (the "Tenant's Insurance Contribution"). Such payment shall be made in accordance with Section 7.3. Tenant's Insurance Contribution shall be prorated for any period which Tenant occupies the Premises for only part of the calendar year. If any building in the Shopping Center is separately insured against physical loss or damage and the premiums for such separate insurance are payable by a tenant or owner other than Landlord, then such insurance premiums shall not be included in the premiums upon which Tenant's Insurance Contribution is based and in such event the denominator of Tenant Fraction for purposes of allocation of casualty insurance shall be reduced by the number of square feet of leasable floor space contained in the building or buildings which are covered by such separate insurance.

**Section 7.3.** Tenant shall pay Tenant's Insurance Contribution in monthly installments equal to one-twelfth (1/12) of the estimated Tenant's Insurance Contribution for the then current calendar year, as determined by Landlord in good faith based upon actual premiums charged to Landlord for the insurance described in Section 7.1. Other than the estimated Initial Tenant's Insurance Contribution, notice of the estimated Tenant's Insurance Contribution for each Lease Year shall be delivered by Landlord to Tenant on or before the January 1 of the calendar year in which the premiums are to be paid. Within 30 days after the end of each calendar year during the Term, Tenant shall pay to Landlord any unpaid portion of Tenant's Insurance Contribution for that portion of the Lease Year falling in the immediately preceding calendar year during the Term, but Tenant shall be entitled to a credit (against the next ensuing estimated Tenant's Insurance Contribution) from Landlord for any excess Tenant's Insurance Contribution actually paid by Tenant for such calendar year. Any excess Tenant's Insurance Contribution paid during the last Lease Year shall be paid by Landlord to Tenant within fifteen (15) days after Landlord is reasonably able to calculate the amount of any such excess. The estimated Tenant's Insurance Contribution for the first calendar year falling in the first Lease Year is set forth in Fundamental Lease Provision Article I, subparagraph (l).

#### **ARTICLE VIII COMMON AREA CHARGES**

**Section 8.1.** Throughout the Term, except as otherwise required by this Lease to be the obligation of Tenant, Landlord shall operate and maintain the Common Areas or otherwise cause the Common Areas to be kept and maintained, in neat, safe and in a state of good order and repair in accordance with reasonable standards of shopping center cleanliness and maintenance; provided that Tenant at its expense shall keep the Common Areas free of litter, trash and debris generated by or resulting from the operation of Tenant's business in and about the Premises. Tenant shall pay to Landlord, as additional rent, an amount equal to the Tenant Fraction of the expenses paid, incurred or

accrued by Landlord for operating and maintaining the Common Areas (the "Tenant's Common Area Charge"). Such payment by Tenant to Landlord shall be made in accordance with Section 8.2. Tenant's Common Area Charge shall be prorated for any period which Tenant occupies the Premises for only part of a calendar year.

**Section 8.2.** Tenant shall pay Tenant's Common Area Charge in monthly installments equal to one-twelfth (1/12) of the estimated Tenant's Common Area Charge for the then current calendar year, as determined by Landlord in good faith. Other than the estimated Initial Tenant's Common Area Charge, notice of the estimated Tenant's Common Area Charge for each Lease Year shall be delivered by Landlord to Tenant on or before the January 1 of the calendar year to which the Tenant's Common Area Charge shall apply. Within 30 days after the end of each calendar year during the Term, Tenant shall pay to Landlord any unpaid portion of Tenant's Common Area Charge for that portion of the Lease Year falling in the immediately preceding calendar year during the Term, but Tenant shall be entitled to a credit (against the next ensuing estimated Tenant's Insurance Contribution) from Landlord for any excess Tenant's Common Area Charge actually paid by Tenant for such calendar year. Any excess Tenant's Common Area Charge paid during the last Lease Year shall be paid by Landlord to Tenant within fifteen (15) days after Landlord is reasonably able to calculate the amount of any such excess. The estimated Initial Tenant's Common Area Charge for the first calendar year falling in the first Lease Year is set forth in Fundamental Lease Provision Article I, subparagraph (k). Landlord agrees to deliver to Tenant within a reasonable amount of time after the end of each calendar year a detailed breakdown of all Common Area Charges for the Shopping Center and Tenant's proportionate share thereof. Landlord shall also furnish Tenant, from time to time, with such information substantiating the Tenant's Common Area Charge as Tenant may reasonably request. Tenant shall also have the right, at any time from time to time upon request, during normal business hours, at its expense, to audit Landlord's books and records concerning such charges.

**Section 8.3.** The costs of operating and maintaining Common Areas to which the Tenant's Common Area Charge shall apply include expenses paid, incurred or accrued by Landlord: for lighting, electricity, heating and air conditioning for any enclosed portions of the Common Areas; professional property management services; water to maintain the Common Areas; cleaning, sweeping and other janitorial services related to the Common Areas; trash removal and maintenance of refuse receptacles from the Common Areas to the extent not an obligation of a tenant of the Shopping Center; snow and ice removal; pollution control to the extent not an obligation of a tenant of the Shopping Center; repairing, repainting and re-striping the parking lot; landscaping, including maintenance thereof, of all outdoor Common Areas; sewer charges not paid by or the obligation of any tenant of the Shopping Center; maintaining markers and signs; seasonal holiday decorations; music to the Common Areas; removing trash from the Common Areas to the extent not the obligation of any tenant; wages, payroll taxes, worker's compensation insurance and other benefits paid to, or on behalf of, Landlord's employees to maintain the Common Areas; parking lot liability insurance; licenses and permit fees; policing and security services; fire protection; traffic direction; repairs, replacements and maintenance of equipment or rent paid for leasing such equipment without any allocation for depreciation; maintenance supplies; personal property taxes on the personal property of Landlord constituting a part of the Common Areas; and other everyday maintenance expenses of the Common Areas. Notwithstanding any other provision in this Lease to the contrary, all Tenant's Common Area Charge charges shall be allocated based upon generally accepted accounting principles. Tenant Common Area Charges shall not include: (i) depreciation on the Shopping Center, including any fixtures or trade fixtures of Landlord, (ii) costs of any capital or other improvements or work made or performed for tenants of the Landlord, including any tenant allowance, (iii) finder fees and real estate broker commissions, (iv) mortgage principal or interest allocated to the Shopping Center using generally accepted accounting principles, (v) ground lease

payments, (vi) costs of correcting defects in the Shopping Center or construction of the Shopping Center or any improvements or additions thereto, unless part of the Common Areas, (vii) specific costs or charges billed to or otherwise paid or allocated to another tenant or occupant of the Shopping Center using generally accepted accounting principles, or (viii) any income, value added, excise, franchise or similar taxes.

#### **ARTICLE IX** **CONTROL OF COMMON AREAS BY LANDLORD**

Landlord reserves the following rights with respect to the Common Areas of the Shopping Center:

- (a) to establish reasonable rules and regulations for the use of the Common Areas, including, without limitation, the delivery of goods and the disposal of trash;
- (b) to use or permit the nonexclusive use of the Common Areas by others to whom Landlord may grant or have granted such reasonable rights in such manner as Landlord may, from time to time, reasonably designate, including, but not limited to, sales and special promotional events;
- (c) to temporarily close all or any portion of the Common Areas, to make repairs or changes in accordance with this Lease, to prevent a dedication of the Common Areas or the accrual of any rights to any person or to the public;
- (d) to change the layout of the Common Areas, including the right to add to or subtract from their shape and size, whether by the addition of building improvements or otherwise; provided, however, that in all events, such construction or change shall not obstruct or materially and adversely change the ingress or egress to the Premises, impair the visibility of the Premises or otherwise unreasonably interfere with Tenant's use and enjoyment of the Premises;
- (e) to enter into operating, maintenance or similar agreements with respect to the Common Areas; and
- (f) to do such other acts in and to the Common Areas as in Landlord's reasonable judgment may be desirable; provided, however, that such rights shall be exercised in such manner as not to unreasonably interfere with Tenant's conduct of its business in the Premises.

#### **ARTICLE X** **UTILITIES**

Upon Tenant's possession of the Premises, Tenant shall contract, in its own name, for and pay when due all charges for connection or use of water, gas, electricity, telephone, internet service, cable or satellite television service, garbage collection, sewer use and other utility services supplied to the Premises during the Term of this Lease. Under no circumstances shall Landlord be responsible for any interruption of any utility service except to the extent directly related to, caused by or resulting from (i) the gross negligence or wrongful acts, error or omissions of Landlord (including any of Landlord's (a) officers, (b) agents or employees or (c) contractors or subcontractors), (ii) any failure by Landlord to perform any of the agreements, terms or conditions of this Lease required to be performed by Landlord or to perform any obligations of Landlord in respect of this Lease, or (iii) any failure by Landlord to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority.

**ARTICLE XI**  
(Intentionally Deleted)

**ARTICLE XII**  
**ALTERATIONS**

**Section 12.1.** Other than Tenant Work and Initial Tenant Improvements (as defined in Section 34.1) and the Equipment (as that term is defined in Section 34.5) purchased by Tenant pursuant to that certain Equipment Purchase Agreement of even date herewith between Landlord and Tenant, Tenant shall not, without Landlord's prior written consent which will not be unreasonably withheld, either make, or cause to be made, any alterations, additions or improvements in or to the Premises or any part thereof (structural or otherwise), including, but not limited to, the foundations, the roof and any signs, shades or awnings located outside of the Premises. Nothing in this Article XII shall be construed to require Landlord's consent to maintain, repair or replace Tenant Work, Initial Tenant Improvements, the Equipment or any alterations, additions or improvements previously made by Tenant and approved by Landlord.

**Section 12.2.** Tenant shall promptly pay its contractors, subcontractors and materialmen for all work done or performed at the Premises by or on behalf of Tenant, so as to prevent the assertion or imposition of any lien or claim upon or against the Shopping Center, the Premises or Landlord. Should any such lien or claim be asserted or filed, Tenant shall bond against or discharge the same within ten (10) days after Tenant receives notice thereof. Landlord may satisfy and remove any such lien or claim by paying the full amount claimed or otherwise, without investigating the validity thereof, if Tenant fails to comply with the foregoing provision. Tenant shall reimburse Landlord, including Landlord's reasonable attorneys' fees, costs and expenses, together with interest at the rate of 15% per annum from the date of Landlord's payment until repaid by Tenant. In no event shall Tenant have any authority whatsoever to enter into any agreement on behalf of Landlord which could result in the imposition of any lien or claim against the Premises or the Shopping Center.

**ARTICLE XIII**  
**SIGNS**

Tenant will not, without Landlord's prior written consent, place or suffer to be placed or maintained on any exterior door, wall or window of the Premises, any sign, awning or canopy or advertising matter or other thing of any kind, and will not, without such consent, place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the Premises. Landlord's consent may be given or withheld in a manner so as to assure reasonable uniformity throughout the Shopping Center and to maintain a first-class appearance of the same. All signs, awnings, canopies, decorations, lettering, advertising matter or other things so approved by Landlord and installed by Tenant shall at all times be maintained by Tenant, at its expense, in good condition and repair. Landlord's consent shall be deemed given only when this Lease is amended by an addendum executed by the parties hereto specifically describing the sign, awning, canopy or advertising matter permitted. Tenant agrees to comply with the provisions of Exhibit D, Tenant Sign Criteria, attached to and made a part of this Lease. Notwithstanding the foregoing, Tenant shall have the right to install one neon "open" sign and up to five other neon signs in the windows of the Premises advertising products sold by Tenant in accordance with all local governmental codes and Tenant's sign budget, and Landlord hereby approves Tenant's use of the signage identified on Exhibit G attached hereto.

## **ARTICLE XIV ASSIGNMENT OR SUBLICENSE**

Tenant shall not assign this Lease or sublet the whole or any part of the Premises, transfer this Lease by operation of law or otherwise or permit any other person except agents and employees of Tenant to occupy the Premises, or any part thereof, without the prior written consent of Landlord. Landlord may consider the following in determining whether to withhold consent: (i) financial responsibility of the new tenant, (ii) identity and business character of the new tenant and (iii) nature and legality of the proposed use of the Premises. Notwithstanding the foregoing, prior to the Commencement Date, Tenant shall have the right to assign this Lease to any corporation in which the individual guarantors of this Lease are majority shareholders, to any limited partnership in which the individual guarantors of this Lease are general partners, either directly or through another entity, or to a limited liability company in which the individual guarantors of this Lease own a majority of the interests.

Landlord shall have the right to assign its interest under this Lease or the Rent reserved hereunder.

## **ARTICLE XV REPAIRS**

Landlord agrees to maintain in a good state of condition and repair as necessary the foundations, roof, exterior portions of the outside walls, gutters and downspouts of the Shopping Center, which shall be maintained by Landlord at its cost, except when the condition requiring such repairs shall result from the negligence or willful act of Tenant or Tenant's Representatives.

Except to the extent directly related to, caused by or resulting from, out of or in connection with (i) the gross negligence or wrongful acts, error or omissions of Landlord (including any of Landlord's (a) officers, (b) agents or employees or (c) contractors or subcontractors), (ii) any failure by Landlord to perform any of the agreements, terms or conditions of this Lease required to be performed by Landlord or to perform any obligations of Landlord in respect of this Lease, or (iii) any failure by Landlord to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority, in any of which events, such repairs and replacements shall be the obligation of Landlord, Tenant agrees that it will make, at its own cost and expense, all repairs and replacements to the Premises including, but not limited to: all interior and exterior doors, door frames, windows and plate glass; the heating, ventilation & air conditioning (HVAC) systems; and the plumbing and electrical systems servicing the Premises. Tenant agrees to do all redecorating, remodeling, alteration and painting required by it during the Term at its own cost and expense, to pay for any repairs to the Premises or the Shopping Center made necessary by any negligence or willful act of Tenant or Tenant's Representatives and to maintain the Premises in a safe, clean, neat and sanitary condition. Tenant shall be entitled to no compensation for inconvenience, injury or loss of business arising from the making of any repairs by Landlord, Tenant or other tenants to the Premises or the Shopping Center, regardless of under which Article of this Lease such repairs are made. In the event of an emergency or in the event Tenant fails within a reasonably practicable time period after written notice from Landlord as to the need for such repairs to make such repairs for which Tenant is responsible under this Lease, Landlord may make such repairs and, upon completion thereof, Tenant shall forthwith pay, as additional rent, Landlord's actual and reasonable costs for making such repairs or replacements, together with interest upon such sums as shall be advanced by Landlord from the date of

advancement at the rate of 15% per annum until reimbursed by Tenant. Notwithstanding any provision in this Lease to the contrary, Landlord shall be responsible for all costs to repair or replace any component of the HVAC system in excess of \$500.00 in the aggregate incurred during the first three years of the Term.

#### **ARTICLE XVI CONDITION OF PREMISES**

Except as provided herein, Tenant agrees that no promises, representations, statements, or warranties have been made by or on behalf of Landlord to Tenant respecting the condition of the Premises or the manner of operating the buildings or the making of any repairs to the Premises. Tenant shall, at the termination of this Lease, by lapse of time or otherwise, remove all of Tenant's property in accordance with Article XXVII below and surrender the Premises to Landlord in as good condition as when Tenant took possession, normal wear and casualty loss excepted.

#### **ARTICLE XVII PERSONAL PROPERTY AT RISK OF TENANT**

All personal property and trade fixtures in the Premises shall be at the risk of Tenant only. Landlord shall not be liable for any damage to any property or trade fixtures of Tenant or its agents or employees in the Premises caused by any casualty, steam, electricity, sewage, gas or odors or from water, rain or snow which may leak into, issue or flow into the Premises from any part of the Shopping Center or from any other place, or for any damage done to Tenant's property in moving same to or from the Shopping Center or the Premises. Tenant shall give Landlord or its agents, prompt written notice of any damage to or defects in water pipes, sewer, electrical, gas or warming or cooling apparatus in the Premises.

Landlord shall not be responsible nor have any liability whatsoever at any time for loss or damage to Tenant Work, Initial Tenant Improvements, any other alterations, additions or improvements to the Premises previously made by Tenant whether or not approved by Landlord, the Equipment or any other personal property located on or about the Premises except to the extent directly related to, caused by or resulting from, out of or in connection with (i) the gross negligence or wrongful acts error or omissions of Landlord (including any of Landlord's (a) officers, (b) agents or employees or (c) contractors or subcontractors), (ii) any failure by Landlord to perform any of the agreements, terms or conditions of this Lease required to be performed by Landlord or to perform any obligations of Landlord in respect of this Lease, or (iii) any failure by Landlord to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority.

#### **ARTICLE XVIII LANDLORD'S RESERVED RIGHTS**

Without notice to Tenant, without liability to Tenant for damage or injury to property, person or business and without effecting an eviction of Tenant or a disturbance of Tenant's use or giving rise to any claim for set-off or abatement of rent, Landlord and its agents shall have the right to:

- (a) change the name or street address of the Shopping Center;
- (b) install and maintain signs on the Shopping Center;

- (c) have access to all mail chutes according to the rules of the United States Post Office Department;
- (d) at reasonable times, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Premises (provided that the same do not impair Tenant's improvements to the Premises), the Shopping Center or part thereof, and any adjacent building, land, street or alley, and during such operations to take into and through the Premises or any part of the Shopping Center all materials required, and to temporarily close or suspend operation of entrances, doors, corridors or other facilities to do so;
- (e) possess passkeys to the Premises;
- (f) show the Premises to prospective Tenants at reasonable times during the six-month period prior to expiration of the term of this Lease and exhibit "For Rent" signs thereon; and
- (g) take any and all reasonable measures, including inspections or the making of repairs, alterations and additions and improvements to the Premises or to the Shopping Center, which Landlord deems necessary or desirable for the safety, protection, operation or preservation of the Premises or the Shopping Center.

#### **ARTICLE XIX ACCESS BY LANDLORD**

Landlord and Landlord's agents shall have the right to enter the Premises at all reasonable times upon reasonable advance notice to Tenant (except in cases of emergency) to inspect the Premises, to show the Premises to prospective purchasers and tenants, and to make such repairs, alterations, improvements or additions as permitted under this Lease, provided that Landlord shall not thereby unreasonably interfere with the conduct of Tenant's business.

#### **ARTICLE XX INSURANCE**

Tenant shall not use or occupy the Premises or any part thereof in any manner which could invalidate any policies of insurance now or hereafter placed on the Shopping Center or increase the risks covered by insurance on the Shopping Center or necessitate additional insurance premiums or policies of insurance, even if such use may be in furtherance of Tenant's business purposes. In the event any policies of insurance are invalidated by acts or omissions of Tenant, Landlord shall have the right to terminate this Lease or, at Landlord's option, to charge Tenant for extra insurance premiums required on the Shopping Center on account of the increased risk caused by Tenant's use and occupancy of the Premises. Each party hereby waives all claims for recovery from the other for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such policies. However, this waiver shall apply only when permitted by applicable policies of insurance.

#### **ARTICLE XXI INDEMNITY**

Except to the extent any such Damages shall be directly related to, caused by or result from, out of or in connection with (i) the gross negligence or wrongful acts error or omissions of Landlord (including any of Landlord's (a) officers, (b) agents or employees or (c) contractors or subcontractors),

(ii) any failure by Landlord to perform any of the agreements, terms or conditions of this Lease required to be performed by Landlord or to perform any obligations of Landlord in respect of this Lease, or (iii) any failure by Landlord to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority, Tenant shall indemnify, hold harmless and defend Landlord from and against, and Landlord shall not be liable to Tenant on account of, any and all costs, expenses, liabilities, losses, damages, suits, actions, fines, penalties, demands or claims of any kind, including reasonable attorneys' fees, asserted by or on behalf of any person, entity or governmental authority (collectively, "Damages) arising out of or in any way connected with (w) any failure by Tenant to perform any of the agreements, terms or conditions of this Lease required to be performed by Tenant; (x) any failure by Tenant to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority; (y) any accident, death or personal injury, or damage to or loss or theft of property, arising from, related to or connected with the conduct and operation of Tenant's business in the Premises or (z) any risks associated with any so-called "dram-shop" liability related to Tenant's operations on the Premises.

#### **ARTICLE XXII LIABILITY INSURANCE**

Tenant at all times during the term of this Lease shall, at Tenant's expense, provide and maintain with respect to the Premises comprehensive general public liability insurance on an occurrence basis in form customarily written for protection of tenants and landlords, insuring Tenant as the named insured and Landlord as an additional insured, providing coverage of not less than Two Million Dollars (\$2,000,000) single limit for injuries to any person, for injuries to persons in any one occurrence and for damage to property, provided such minimum of insurance coverage shall not limit Tenant's liability under any provisions of this Lease. All such insurance shall provide that Landlord shall be given a minimum of ten (10) days notice by the insurance company prior to cancellation, termination or change of such insurance. Tenant shall provide Landlord with copies of the policies or certificates evidencing that such insurance is in full force and effect and stating the terms and provisions thereof. If Tenant fails to comply with such requirements for insurance, Landlord may, but shall not be obligated to, obtain such insurance and keep the same in effect and Tenant agrees to pay Landlord, upon demand, the premium cost thereof. Tenant agrees to provide Landlord with evidence of such coverage upon Tenant's possession of the Premises and at anytime Landlord requests evidence of such coverage.

#### **ARTICLE XXIII DAMAGE BY FIRE OR OTHER CASUALTY**

If, during the Term, the Premises shall be so damaged by fire or other casualty as to be rendered wholly or partially un-tenantable, then the Rent under this Lease shall abate while the Premises remain un-tenantable. In the event of such damage, if Landlord determines, in its good faith reasonable judgment, that the repair of such damage can be accomplished in a commercially reasonable manner within one hundred twenty (120) days after the occurrence of such damage, then Landlord shall so advise Tenant as soon as practicable (but not later than thirty (30) days) after the occurrence of such damage and shall use its best efforts to complete the necessary repairs within such 120-day period. If Landlord determines, in its good faith reasonable judgment, that the repair of such damage cannot be accomplished in a commercially reasonable manner within such 120-day period, then as soon as practicable (but not later than thirty (30) days) after the occurrence of such damage Landlord shall notify Tenant in writing of such determination and the anticipated time required to complete the necessary repairs and may elect either to repair such damage or to terminate this Lease. If Landlord elects, pursuant to the preceding sentence, to repair the damage, then Landlord shall notify Tenant in writing of such election as soon as practicable (but not later than thirty (30) days) after the occurrence of such damage and shall undertake to

complete the necessary repairs as soon as practicable and without unnecessary delay; provided, however, that if Landlord has notified Tenant that the anticipated time required to complete the necessary repairs is more than one hundred eighty (180) days, then Tenant shall have the right, exercisable within twenty (20) days after Tenant's receipt of Landlord's notice as to such anticipated time, to terminate this Lease by written notice to Landlord stating the effective date of such termination (which shall not be more than one hundred twenty (120) days after Tenant's receipt of Landlord's notice as to such anticipated time). If Landlord is entitled to terminate this Lease pursuant to this Article XXIII, then Landlord may do so by written notice to Tenant within thirty (30) days after the occurrence of such damage. If Landlord has the right to terminate this Lease pursuant to this Article XXIII but does not, within thirty (30) days after the occurrence of the relevant damage, notify Tenant of Landlord's election with respect to either the repair of the relevant damage or the termination of this Lease, then Landlord shall be deemed to have elected to terminate this Lease. The termination of this Lease by Landlord pursuant to this Article XXIII shall be effective as of the date of the damage which gives rise to the right on the part of Landlord to terminate this Lease, but Tenant shall have a reasonable time (not less than thirty (30) days after Tenant's receipt of the notice of termination from Landlord or the automatic termination of this Lease pursuant to the preceding sentence) to vacate the Premises. If the Premises are damaged by such fire or other casualty and Landlord is required or elects pursuant to this Article XXIII to repair the Premises, then such repairs need not exceed the quality and finish of the Premises as they existed on the date of this Lease. If the extent of damage is not so great so as to render the Premises un-tenantable, the Premises will be promptly repaired and the Base Rent will not be abated in whole or in part. Tenant shall promptly notify Landlord of any damage to the Premises by fire or other casualty occurring during the term of this Lease.

#### **ARTICLE XXIV CONDEMNATION**

If the whole or any part of the Premises shall be taken by public authority under the power of eminent domain, then the term of this Lease shall cease on that portion of the Premises so taken from the date of possession, and the Base Rent shall be paid to that date, with a proportionate refund by Landlord to Tenant of such Rent as may have been paid by Tenant in advance. If the portion of the Premises taken is such that it prevents the practical use of the Premises for Tenant's purposes, then Tenant shall have the right either (i) to terminate this Lease by giving written notice of such termination to Landlord not later than 30 days after the taking or (ii) to continue in possession of the remainder of the Premises, except that the Base Rent shall be reduced in proportion to the area of the Premises taken. In the event of any taking or condemnation of the Premises, in whole or in part, the entire resulting award of damages shall be the exclusive property of Landlord, including all damages awarded as compensation for diminution in value to the leasehold, without any deduction for the value of any unexpired term of this Lease or for any other estate or interest in the Premises now or hereafter vested in Tenant.

#### **ARTICLE XXV DEFAULT OR BREACH**

Each of the following events shall constitute a default or a breach of this Lease by Tenant (an "Event of Default"):

- (a) Tenant fails to pay Landlord any Rent or any other amounts required to be paid by Tenant within five (5) days after the due date;
- (b) Other than in respect to a casualty event, Tenant vacates or abandons the Premises or ceases to continually use the Premises for the purposes stated in Article IV above;

- (c) Tenant files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or voluntarily takes advantage of any such act by answer or otherwise or makes an assignment for the benefit of creditors;
- (d) Involuntary proceedings under such bankruptcy law or insolvency act or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of the property of Tenant, and such proceeding is not dismissed or such receivership or trusteeship vacated within ninety (90) days after such institution or appointment; or
- (e) Tenant breaches any of the other agreements, terms, covenants or conditions which this Lease requires Tenant to observe or perform, and such breach continues for a period of thirty (30) days after notice from Landlord to Tenant; or if such breach cannot be cured reasonably within such thirty (30) day period and Tenant fails to commence to cure such breach within thirty (30) days after notice from Landlord or fails to proceed diligently to cure such breach within a reasonable time period thereafter (not to exceed ninety (90) days).

#### **ARTICLE XXVI** **EFFECT OF EVENT OF DEFAULT**

Upon the occurrence of any Event of Default Landlord may exert any one or more of the following rights subject to Landlord's duty to use commercially reasonable efforts to mitigate its damages, including but not limited to using commercially reasonable efforts to re-let the Premises:

- (a) Landlord may re-enter the Premises immediately and remove the property and personnel of Tenant and shall have the right, but not the obligation, to store such property in a public warehouse or at a place selected by Landlord, at the risk and expense of Tenant.
- (b) Landlord may retake the Premises and may terminate this Lease by giving written notice of termination to Tenant. Should Landlord elect to reenter as provided in this subparagraph (b), or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord shall use its commercially reasonable good faith efforts to re-let the Premises or any part of the Premises in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term) and on such conditions and upon such other terms as Landlord, in its commercially reasonable discretion, may determine and Landlord may collect and receive the rent. No such reentry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord under this subparagraph (b) or under a forcible or unlawful entry and detainer statute or similar law will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right following any such reentry or re-letting to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease will terminate as specified in such notice.
- (c) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of the Landlord's rights and remedies under this Lease, including the right to recover the Rent and any other charges and adjustments as may become due hereunder.

(d) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of Nebraska.

#### **ARTICLE XXVII** **SURRENDER; HOLDING OVER**

Upon termination of this Lease, whether by expiration of the Term or otherwise, Tenant shall peaceably surrender the Premises, including all Tenant Work, Initial Tenant Improvements and any other alterations, additions, improvements, decorations and repairs made to the Premises, clean and in good condition and repair, reasonable wear and tear excepted and damage from casualty, eminent domain or negligent or willful act of Landlord, its officers, agents or employees. Tenant may remove all its trade fixtures, including the Equipment, as that term is defined in Section 35.4, and any of its other business equipment and personal property not expressly required under the provisions of this Lease to be surrendered to Landlord, before surrendering the Premises as aforesaid, but shall repair any damage to the Premises caused thereby. Any property of Tenant not removed within five (5) business days after the date of the expiration or earlier termination of the Term or this Lease shall be deemed abandoned by Tenant and may be disposed of by Landlord without any obligation to account to Tenant therefor.

If the Premises are not promptly surrendered upon termination of this Lease as hereinabove set out, Tenant shall indemnify Landlord against loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, claims made by any succeeding tenant founded on such delay and lost rentals and prorate charges. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease.

If Tenant remains in possession after termination of this Lease without a written lease, Tenant shall be deemed a trespasser. If Tenant pays and Landlord accepts Base Rent and all other amounts required to be paid by Tenant under this Lease for a period after termination, Tenant shall be deemed to be occupying the Premises only as a tenant from month to month, subject to all of the other terms and provisions of this Lease, except that the Base Rent will be twice the monthly Base Rent in effect immediately prior to the termination.

#### **ARTICLE XXVIII** **SUBORDINATION AND ATTORNMENT**

Landlord reserves the right to place liens and encumbrances on the Premises superior in lien and effect to this Lease. This Lease, and all rights of Tenant hereunder, shall, at the option of Landlord, be subject and subordinate to any liens and encumbrances now or hereafter imposed by Landlord upon the Premises or the Shopping Center or any part thereof, and Tenant agrees to execute, acknowledge and deliver to Landlord, upon request, any and all instruments that may be necessary or proper to subordinate this Lease and all rights herein to any such lien or encumbrance as may be required by Landlord. Tenant further agrees to execute any estoppel certificate which may be required by any lender of Landlord or mortgage holder on the Shopping Center.

In the event any proceedings are brought for the foreclosure of any mortgage on the Premises, Tenant will attorn to the purchaser at the foreclosure sale and recognize such purchaser as Landlord under this Lease. The purchaser, by virtue of such foreclosure, shall be deemed to have assumed, as substitute Landlord, the terms and conditions of this Lease until the resale or other disposition of its interest. Such

assumption, however, shall not be deemed an acknowledgment by the purchaser of the validity of any then existing claims of Tenant against the prior Landlord.

Tenant agrees to execute and deliver such further assurances and other documents, including a new lease upon the same terms and conditions contained herein confirming the foregoing, as such purchaser may reasonably request. Tenant waives any right of election to terminate this Lease because of any such foreclosure proceedings.

#### **ARTICLE XXIX NOTICES**

Any notice given hereunder shall be given in writing and sent by personal delivery or by registered or certified mail to Landlord at the address set forth in Fundamental Lease Provision Article I, subparagraph (b) and to Tenant at the address set forth in Fundamental Lease Provision in Article I, subparagraph (d) or at such other address as either party may from time to time designate in writing. Each such notice shall be deemed to have been given at the time it shall be personally delivered to such address or deposited in the United States mail in the manner prescribed herein.

#### **ARTICLE XXX (Intentionally Deleted)**

#### **ARTICLE XXXI RULES AND REGULATIONS**

Tenant and Tenant's agents, employees and invitees shall fully comply with all rules and regulations of the Shopping Center, as amended from time to time, which are made a part of this Lease as if fully set forth herein. Landlord shall have the right to adopt and to amend such rules and regulations as Landlord deems necessary or desirable for the safety, care, cleanliness or proper operation of the Premises and the Shopping Center; provided, however, that no such rule or regulation, including any such rule or regulation expressly set forth in this Lease, shall be deemed to apply to Tenant operations of the Premises to the extent that such rule or regulation shall (i) conflict with any provision of this Lease or (ii) unreasonably interfere with Tenant's use and occupancy of the Premises for its intended purposes.

Tenant agrees as follows:

- (a) The delivery or shipping of goods, merchandise, supplies and fixtures to and from the Premises shall be subject to such reasonable rules and regulations as in the judgment of Landlord are necessary for the proper operation of the Shopping Center.
- (b) No loudspeakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside the Premises, without the prior written consent of Landlord which may be withheld in Landlord's reasonable discretion; provided, however, that Tenant may use outdoor speakers in furtherance of its operations in the Patio Area, subject to such reasonable rules and regulations applicable to all tenants of the Shopping Center as Landlord may from time to time prescribe.
- (c) Subject to Section 35.3, Tenant shall not place or permit any obstructions or merchandise in the outside or Common Areas immediately adjoining the Premises or other common facilities, and shall not use such areas for business purposes other than for ingress and egress.

- (d) Between Landlord and Tenant, Tenant shall have full responsibility for protecting the Premises and the property located therein from theft and robbery.
- (e) Tenant shall not permit on the Premises any act or practice which is unlawful, immoral or which might injure the reputation of the Shopping Center.
- (f) Tenant and Tenant's employees and agents shall not solicit business in the parking or other Common Areas, nor shall Tenant distribute or place handbills or other advertising matter in or on automobiles parked in the parking areas or other Common Areas.
- (g) Tenant shall use reasonable efforts consistent with industry standards to maintain the Premises free and clear of rodents, bugs and vermin. Tenant shall use, at its cost and at such intervals as Landlord shall reasonably require, a reputable pest extermination contractor to provide extermination services in the Premises.
- (h) Tenant shall not burn any trash, rubbish or garbage in or about the Premises or the Shopping Center.

**ARTICLE XXXII**  
(Intentionally Deleted)

**ARTICLE XXXIII**  
**MISCELLANEOUS**

**Section 33.1. Binding on Assigns.** All terms, conditions and agreements of this Lease shall be binding upon, apply and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and assigns.

**Section 33.2. Amendment in Writing.** This Lease includes all Exhibits attached to this Lease. This Lease contains all of the agreements of the parties with respect to any matter covered or mentioned in this Lease, and no prior agreements or understandings pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing and signed by the parties. This Lease shall not be effective or binding on any party until executed by both parties.

**Section 33.3. Non-waiver.** The failure of Landlord to insist upon strict performance of any of the terms, conditions and agreements of this Lease shall not be deemed a waiver of any of its rights or remedies hereunder and shall not be deemed a waiver of any subsequent breach or default of any of such terms, conditions and agreements. The doing of anything by Landlord which Landlord is not obligated to do hereunder shall not impose any future obligation on Landlord nor otherwise amend any provisions of this Lease.

**Section 33.4. No Surrender.** No surrender of the Premises by Tenant shall be effected by Landlord's acceptance of the keys to the Premises or of Rent or any other sums due hereunder, or by any other means whatsoever, without Landlord's written acknowledgment that such acceptance constitutes a surrender.

**Section 33.5. Captions; Construction.** The captions of the various paragraphs in this Lease are for convenience only and do not define, limit, describe or construe the contents of such paragraphs. Landlord and Tenant acknowledge that each of them and their counsel have had an opportunity to review

this Lease and that this Lease will not be construed against a party merely because a party has drafted a provision.

**Section 33.6. Brokers.** Each party represents and warrants to the other that it has not dealt with any broker in connection with this Lease. The execution and delivery of this Lease by each party shall be conclusive evidence that such party has relied upon the foregoing representation and warranty. Each party shall indemnify and hold the other harmless from and against any and all claims for commissions, fees or other compensation by any person or entity who shall claim to have dealt with such party in connection with this Lease and for any and all costs incurred by thereby in connection with such claims, including, without limitation, reasonable attorneys' fees and disbursements. The provisions of this Section 33.6 shall survive the expiration of the Lease.

**Section 33.7. Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of the State of Nebraska.

**Section 33.8. Authority of Tenant.** The execution of this Lease by the individual or individuals executing this Lease on behalf of Tenant, and the performance by Tenant of Tenant's obligations under this Lease, have been duly authorized and approved by all necessary corporate, partnership or limited liability company action, as the case may be, and the execution, delivery and performance of this Lease by Tenant is not in conflict with Tenant's bylaws or articles of incorporation (if a corporation), agreement of partnership (if a partnership) or operating agreement (if a limited liability company), and other charters, agreements, rules or regulations governing Tenant's business as any of the foregoing may have been supplemented or amended in any manner.

**Section 33.9. Authority of Landlord.** Landlord warrants and represents that it is the owner of the Premises and the execution of this Lease by the individual or individuals executing this Lease on behalf of Landlord, and the performance by Landlord of Landlord's obligations under this Lease, have been duly authorized and approved by all necessary corporate, partnership or limited liability company action, as the case may be, and the execution, delivery and performance of this Lease by Landlord is not in conflict with Landlord's bylaws or articles of incorporation (if a corporation), agreement of partnership (if a partnership) or operating agreement (if a limited liability company), and other charters, agreements, rules or regulations governing Landlord's business as any of the foregoing may have been supplemented or amended in any manner.

**Section 33.10. Confidentiality.** Neither Tenant nor Landlord or any of their respective officers, agents, directors, managers, contractors, affiliates, accountants, licensees, employees, or attorneys, shall disclose any terms of this Lease to any party whatsoever except as expressly allowed in this Section 33.10. Tenant and Landlord shall each limit the disclosure of the terms of this Lease only to their respective: (i) accountants, attorneys, consultants, brokers and other representatives; and (ii) to their respective employees who have a reasonable business need to be aware of such terms. Upon breach or threatened breach of this Section 33.10, the non-breaching party shall be entitled to seek injunctive or other equitable relief. The terms of this Section 33.10 shall not be breached should a party to this Lease be compelled by subpoena or other court order to disclose the terms of this Lease; in such event, however, the disclosing party shall give immediate notice to the non-disclosing party of such subpoena or other possible requirement of disclosure in order to afford the non-disclosing party an opportunity to seek an appropriate protective order from the court or other tribunal having jurisdiction of the Premises to limit the public disclosure further as to the contents of this Lease.

**Section 33.11. Cancellation of Lease.** Whenever Landlord or Tenant shall cancel or terminate this Lease (other than for reason of an Event of Default) pursuant to any provision of this Lease, this Lease and all obligations of Landlord and Tenant under this Lease shall be deemed to be nullified and of no further force and effect other than as expressly deemed to survive by the terms of this Lease and in respect to any liability under this Lease of such party to the other party then existing, which liability survive such cancellation or termination.

**Section 33.12. Other Definitions.** Whenever used in this Lease, the term "include", "included", "including" shall in all instances be construed as if followed by the words "without limitation"; the term "party" shall mean Landlord or Tenant, individually; and the term "parties" shall mean Landlord and Tenant, collectively. All references in this Lease to Articles, Sections or subparagraphs shall mean the Articles, Sections and subparagraphs of this Lease.

**Section 33.13. Quiet Possession.** Landlord covenants and agrees with Tenant that so long as Tenant pays the Rent, and observes and performs all the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject to the terms and conditions of this Lease and all rights-of-way, easements, covenants, restrictions and other matters of record affecting the Premises.

**Section 33.14 Waiver.** The waiver by Landlord or Tenant of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

**Section 33.15 Validity and Enforcement of Lease.** If any provision of this Lease proves to be illegal, invalid or unenforceable, the remainder of this Lease will not be affected by such finding, and in lieu of each provision of this Lease that is illegal, invalid or unenforceable, a provision will be added as a part of this Lease as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

#### **ARTICLE XXXIV** **INITIAL IMPROVEMENTS OF THE PREMISES**

**Section 34.1.** Landlord shall deliver possession of the Premises to Tenant in an "As Is" condition as of the Commencement Date, subject to any other applicable provision of this Lease. By taking possession of the Premises, Tenant shall be deemed conclusively to have accepted the same and to have acknowledged that the Premises are in an acceptable condition. In no event shall Landlord be liable to Tenant for latent defects.

Tenant shall promptly perform "Tenant Work" and otherwise install and construct the Initial Tenant Improvements at Tenant's cost and expense (but subject to Section 34.2). For purposes of this Lease, Tenant Work shall mean that Tenant shall fully equip the Premises with all trade fixtures, lighting fixtures, furniture, furnishings, fixtures, floor coverings, any special equipment and other items of personal property as may be necessary for the operation of Tenant's business on the Premises, as determined to be necessary and appropriate by Tenant in Tenant's sole and absolute discretion. All improvements made to the Premises by Tenant in furtherance of the Tenant Work are hereinafter sometimes called "Initial Tenant Improvements." Tenant Work and Initial Tenant Improvements are generally described and identified in Exhibit "F," all of which shall be deemed to be approved by Landlord.

**Section 34.2. Tenant's Allowance.** Landlord shall pay to Tenant the amount set forth in Fundamental Lease Provision, subparagraph (s) to reimburse Tenant for a portion of cost of the construction and completion of Tenant Work and Initial Tenant's Improvements. Such payment shall be subject to the following conditions: (i) Tenant shall deliver to Landlord reasonably satisfactory documentation of all costs and expenses incurred in connection with Tenant Work and Initial Tenant's Improvements; and (ii) Tenant shall furnish to Landlord copies of lien waivers or releases from all suppliers, materialmen, contractors and subcontractors who have supplied either labor or materials in connections with Tenant Work or Initial Tenant's Improvements.

**Section 34.3 Premises Compliance As At Commencement.** Notwithstanding any provision in this Lease to the contrary, Landlord hereby represents to the Tenant that to the best of Landlord's knowledge after due and diligent inquiry, the Shopping Center and the Premises are in full compliance with all applicable laws, statutes, ordinances and governmental rules and regulations in effect at the time, including the Americans With Disabilities Act of 1990, as amended, excepting however any non-compliance that would not be reasonably expected to have a material adverse effect on the Premises or Tenant's occupancy of the Premises.

#### **ARTICLE XXXV OTHER PROVISIONS**

**Section 35.1. Limited Exclusive Use.** As an inducement to Tenant's agreement to enter into this Lease and understanding that Tenant is relying thereupon, Landlord hereby covenants and represents that during the Term, Landlord shall not rent space in the Shopping Center to any person or entity whose primary business activity is or would be the sale of pizza, carry out pizza or delivery of pizza. For purposes of this Section 35.1, "primary business activity" means pizza or pizza-like items on their menu(s) constituting more than twenty-percent (20%) of gross sales.

**Section 35.2 Option to Extend Lease.** If this Lease shall be in force and effect on the date for the expiration of the Term, and Tenant shall not then be in default under this Lease, Tenant shall have the right, at its option ("Extension Option"), to extend the Term for one additional two (2) year period (the "Option Period") upon the same terms and conditions contained in this Lease. To exercise the Extension Option, Tenant shall notify the Landlord in writing, at any time during the original Term, but no later than July 1, 2018. In the event Tenant shall have exercised the Extension Option and the Term shall be so extended, then the word Term shall mean and include the Option Period; provided however, for purposes of clarification, if having exercised the Extension Option and thereafter Tenant shall become in default under this Lease such that Landlord shall have exercised any of its rights under Article XXVI prior to the commencement of the Option Period, then Tenant shall not be liable to Landlord for any Rent or any other amount due by application of any provision of this Lease for the Option Period.

**Section 35.3 Patio Area.** Landlord agrees that Tenant shall be allowed exclusive use of the existing patio area in front of the Premises more particularly described on Exhibit C (the "Patio Area") for no Rent or other compensation, and the Premises thereby shall be deemed to include the Patio Area; provided, however, the square footage of the Patio Area shall not be used in calculating the Tent Fraction for any purpose whatsoever. Tenant agrees to maintain the Patio Area and keep it in a neat and clean condition. Notwithstanding any other provision in this Lease to the contrary, Landlord hereby consents Tenant's installation of planters, pots furnishings and similar items in the Patio Area.

**Section 35.4 Purchase of Furniture, Fixtures and Equipment.** Landlord has agreed to sell, and Tenant has agreed to purchase certain furniture, fixtures and equipment ("Equipment") from Landlord

pursuant to and in accordance with the terms and conditions set forth in that certain Equipment Purchase Agreement ("EPA") and Bill of Sale thereto of even date herewith (copies of which are attached hereto, for reference purposes only, as Exhibit E). In the event any item of the Equipment is transferred to Tenant subject to any Lien (as defined in the EPA) and any item of the Equipment is foreclosed upon by any holder of a Lien or if Tenant is otherwise deprived of title or possession of any item of the Equipment as a result of any such Lien, Tenant shall be entitled to deduct from Base Rent otherwise payable by it under this Lease an amount equal to the lesser of (i) the amount actually paid by Tenant to discharge any such Lien on such item of Equipment or (ii) the Purchase Price (as defined in the EPA) paid by Tenant for such item of Equipment.

**Section 35.5 Exhibits.** The following items and exhibits are attached to and made a part of this Lease:

**Personal Guaranty**

Exhibit "A"	The Premises
Exhibit "B"	The Shopping Center
Exhibit "C"	Patio Area
Exhibit "D"	Tenant Sign Criteria
Exhibit "E"	Copy of Equipment Purchase Agreement (for reference purposes only)
Exhibit "F"	Tenant Work; Initial Tenant Improvements
Exhibit "G"	Tenant's Pre-Approved Signage

**Section 35.6 Time of Essence.** The parties agree that time is an essential element to the performance of their respective obligations hereunder; provided, however, if the date of any performance, including the due date of any payment obligation, under this Lease falls on a Saturday, Sunday or legal holiday under the laws of either of the State of Nebraska or the United States of America, the date of such performance shall be extended to the next day that is not a Saturday, Sunday or legal holiday under the laws of either of the State of Nebraska or the United States of America.

**Section 35.7 Lease to be Construed as Offer to Lease.** Until this Lease is executed on behalf of all parties hereto, it shall be construed as an offer to Tenant by Landlord to lease the Premises to Tenant.

**Section 35.9 Tenant's Additional Right to Terminate Lease.** Notwithstanding any provision of this Lease to the contrary, Landlord agrees that Tenant may terminate this Lease at any time prior to September 30, 2013, if notwithstanding its best efforts and having acted in good faith Tenant has not obtained a Class I liquor license applicable to the Premises within one hundred twenty (120) after the Commencement Date; provided that Tenant shall have applied for such license not later than five (5) business days after the Commencement Date. Such termination shall be effective as of the date specified in a written notice of termination from Tenant to Landlord pursuant to this Section. Tenant agrees to promptly file a complete application with the Nebraska Liquor Control Commission (the "Commission") for a Class I liquor license and to use commercially reasonable efforts to diligently cooperate with the Commission and the local governing body in processing such application. In the event Tenant's application is delayed through no fault of Tenant, Tenant shall not be required to pay Base Rent during such delay, but not to exceed an additional 60 days.

[Remainder of Page Intentionally Blank. Signature Page, Personal Guaranty and Exhibits Follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Southport Center Lease as of the day and year first above written.

PizzaWest, Inc., a Nebraska corporation, Tenant

By:

  
James M. DeRouchey, President

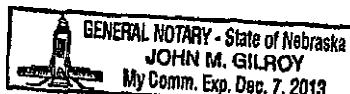
Southport Center, LLC, a Nebraska limited liability company, Landlord

By:

  
John L. Hoich, Managing Member

STATE OF NEBRASKA      )  
                            )  
COUNTY OF DOUGLAS      )      SS.

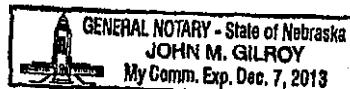
The foregoing instrument was acknowledged before me on March 11, 2013, by James M. DeRouchey, President of PizzaWest, Inc., a Nebraska corporation, on behalf of the corporation.

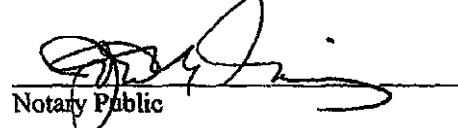


  
Notary Public

STATE OF NEBRASKA      )  
                            )  
COUNTY OF DOUGLAS      )      SS.

The foregoing instrument was acknowledged before me on March 11, 2013, by John L. Hoich, Managing Member of Southport Plaza, a Nebraska limited liability company, on behalf of the limited liability company.



  
Notary Public

**PERSONAL GUARANTY**

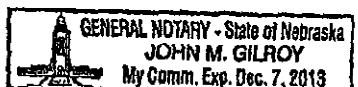
For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to induce Southport Center, LLC ("Landlord"), a Nebraska limited liability company, to enter into that Lease (the "Lease") with PizzaWest, Inc. ("Tenant"), a Nebraska corporation, dated March 11, 2013, the undersigned hereby absolutely, irrevocably and unconditionally guarantees to Landlord the full and complete payment of all rent and other monetary obligations and the performance of all of the duties, obligations, liabilities, indemnifications and responsibilities of Tenant under the Lease. The undersigned further agrees that this liability shall not be released or affected by an extension of time for payment, by any forbearance by Landlord, or by any assignment or modification of the Lease. Notwithstanding any other provisions of this Personal Guaranty to the contrary, (i) this Personal Guaranty shall not modify the obligations of Tenant under the Lease or require the undersigned to expand the obligations of Tenant under the Lease and (ii) the undersigned expressly reserves for himself all rights, setoffs, counterclaims and defenses to which Tenant is or may be entitled under the Lease.

Dated this 11<sup>th</sup> day of March 2013.

James M. DeRouchey  
10853 South 166<sup>th</sup> Street  
Omaha, NE 68136

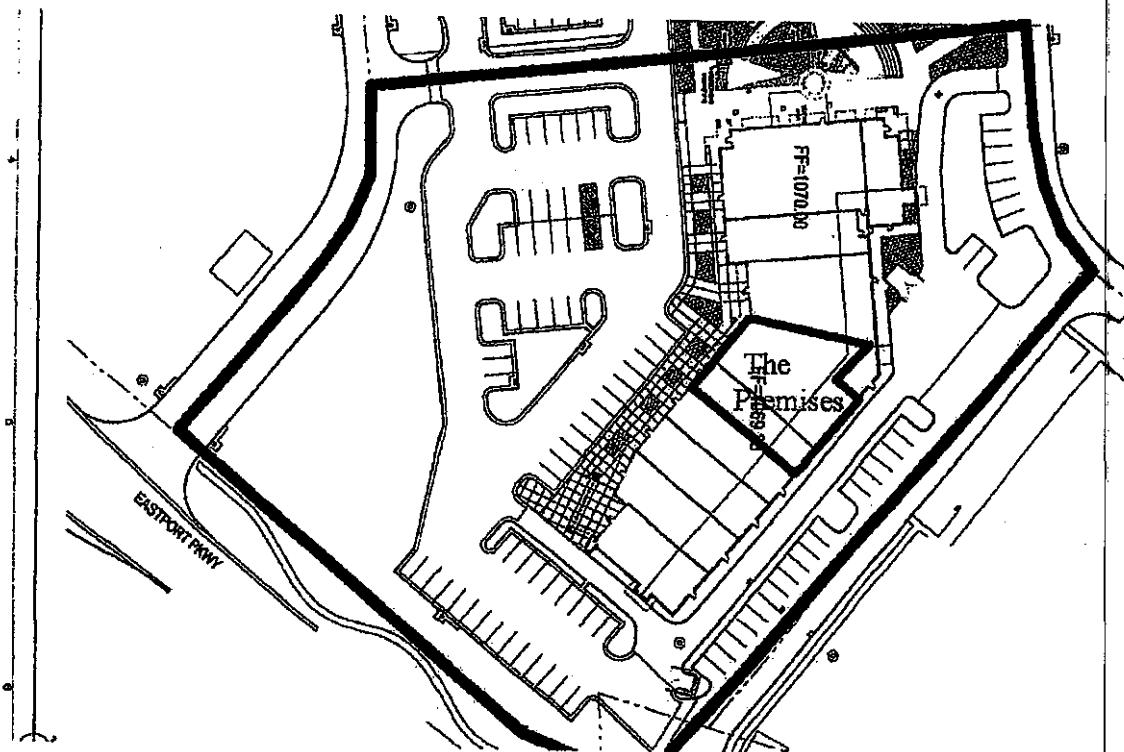
STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

The foregoing instrument was acknowledged before me on March 11, 2013, by James M. DeRouchev.

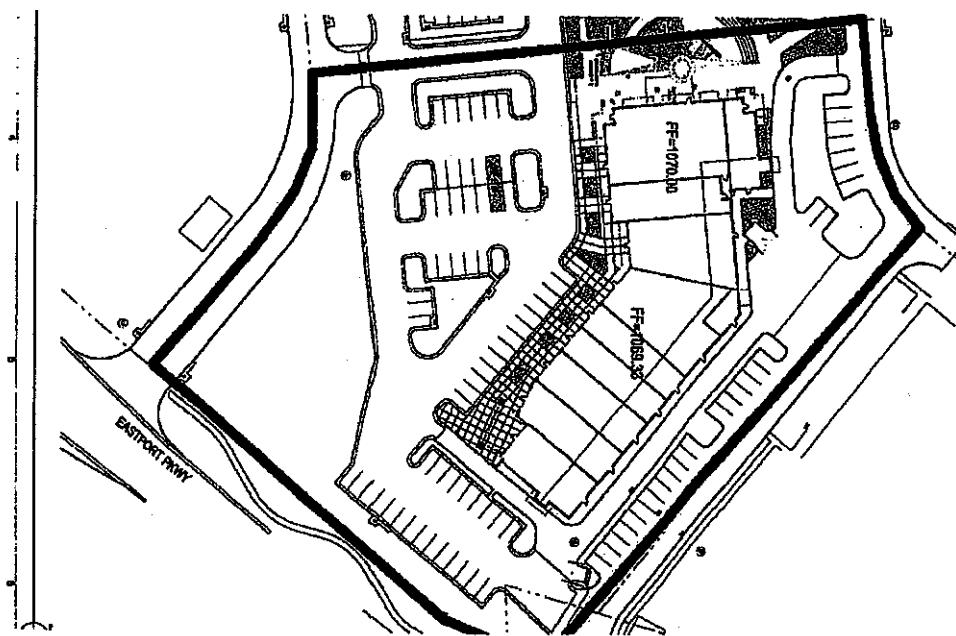


  
Notary Public

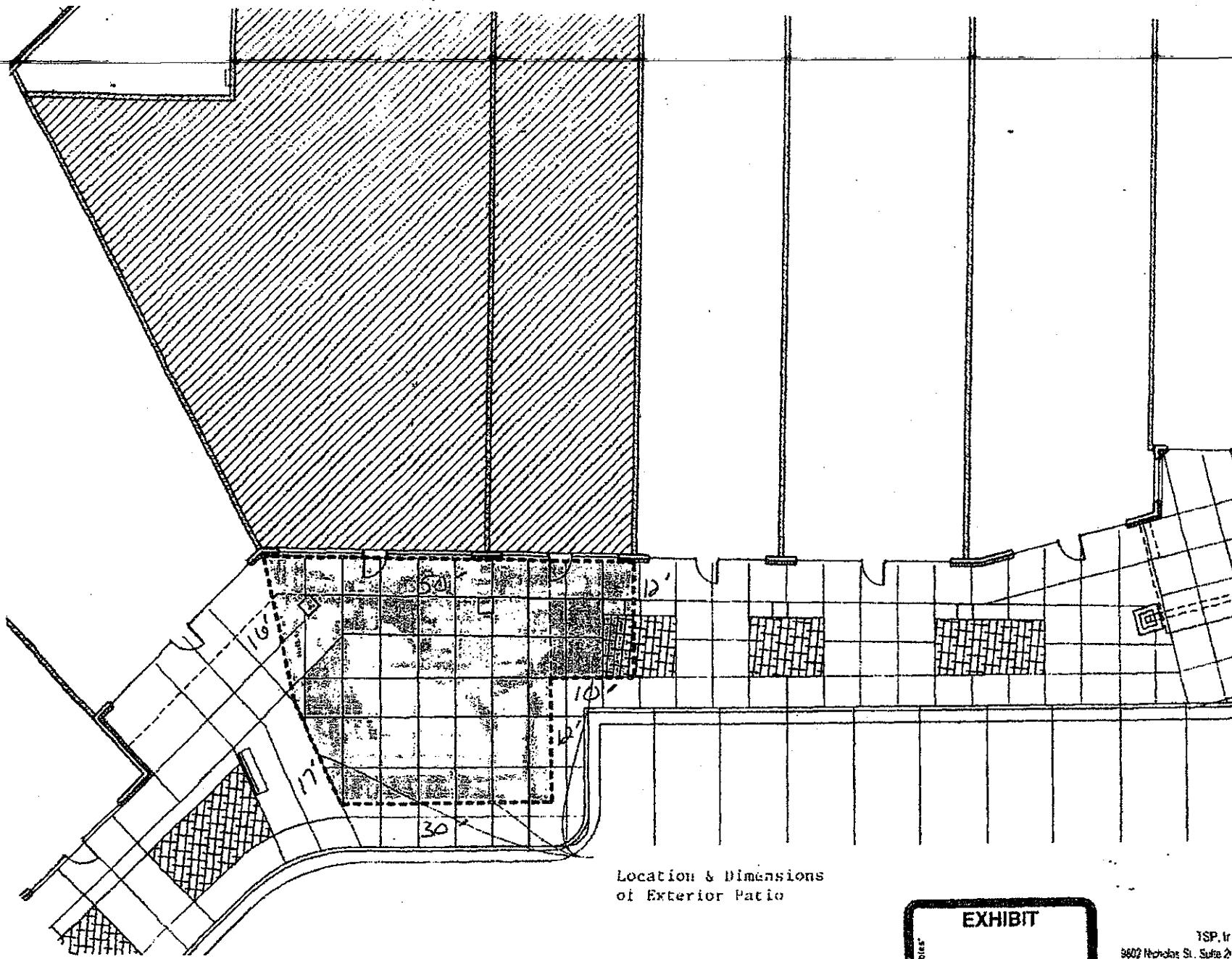
EXHIBIT "A"  
THE PREMISES



**EXHIBIT "B"**  
**THE SHOPPING CENTER**



**EXHIBIT "C"**  
**PATIO AREA**



### Location & Dimensions of Exterior Patio

**EXHIBIT**

TSP, Jr  
9602 Nicholas St. Suite 2  
Omaha NE 681

**EXHIBIT "D"**  
**EXTERIOR SIGN SPECIFICATIONS**

This criteria has been established for the purpose of assuring an outstanding shopping center and for the mutual benefit of all tenants. Conformance will be strictly enforced and any nonconforming installation or unapproved sign must be brought into conformance at the expense of the Tenant.

**General Requirements:**

1. Signs must be store and business name identification signs only and shall be placed on the building façade in the location approved by Landlord's consent and discretion. Sign copy shall be limited to the proper business name of the Tenant. No script will be permitted unless it is part of an established trademark of Tenant.
2. All signs and their installation shall comply with all local building and electrical codes.
3. Wording on signs shall not include the product sold except as part of Tenant's trade name or insignia.
4. Tenant is required to maintain its signs in good working order at all times. At installation and upon the termination of the Tenant's Lease, the Tenant will remove its sign and repair any damaged EIFS (Exterior Insulation Finish System) or other damage caused by the sign to a condition acceptable to the Landlord. All repairs to exterior EIFS must be performed by an EIFS contractor acceptable to the Landlord and all penetrations of the building structure required for sign installation shall be sealed in a watertight condition and shall be patched to match the adjacent EIFS finish.
5. Except as provided herein, no advertising placards, banners, pennants, names, insignia, trademarks, or other descriptive material shall be affixed or maintained upon the glass panes and supports of the show windows and doors, storefront, upon the exterior walls of the building, or within 24 inches of the show or storefront windows.
6. Each Tenant who has a non-customer door for receiving merchandising may have, as approved by the Landlord, in 2-inch high block letters, the Tenant's name and address. Where more than one Tenant uses the same door, each name and address shall be applied. Color of letters will be as selected by the Landlord.
7. No can, box, exposed skeleton neon, non-illuminated, audible, flashing or animated signs shall be allowed. No signs with the face perpendicular to the face of the building or storefront shall be allowed. No exposed lamps, transformers, tubing, raceways, crossover, conductors or conduit shall be allowed.
8. Subject to Landlord's specific approval, registered corporate logos, shield, etc., will be permitted provided they are contained within the designated signable area, comply with these sign specifications and conform to the applicable height, width and color allowance as outlined.

9. Revisions to or deviations from these specifications and conditions, including reallocation or relocation of assigned signable area shall be at Landlord's sole discretion.
10. Tenant shall install on the storefront the numbers for the street address and/or suite number in the exact location, size, type and color as required by the Landlord.

**Sign Manufacturing Requirements:**

1. Only sign vendors approved by the Landlord shall be allowed to manufacture and install all exterior signage.
2. Tenant shall be liable for the operations of Tenant's sign contractor.
3. All signs shall be constructed and installed, including electrical hook-up from Tenant's meter, at Tenant's expense.
4. No projections above or below the sign limits will be permitted. Signs must be within limits indicated.
5. Signs must not exceed 40" in height. The depth from the back of the sign to the face shall be a maximum of five inches. If text is stacked due to restricted length, each line of text must be no less than 12" in height with overall signage height not to exceed 40".
6. Signs shall consist of individually and internally illuminated pan channel letters with a 1" trim cap and mounted to 8" high x 8" deep raceways. Raceways shall be required to be painted to match the building facade. The color of the returns shall be approved by the Landlord. Letter fastening clips are to be concealed and be of galvanized stainless or aluminum metals.
7. No sign letters or components shall have exposed neon or other exposed lighting. All light sources shall be concealed by translucent material. Sign letters or components may be back-illuminated with lamps wholly concealed within the depth of the letter. Maximum brightness shall not exceed 100 foot-lamberts.
8. No labels will be permitted on the exposed surface of signs, except those required by local ordinance which shall be placed in an inconspicuous location, except UL labels as provided by code.
9. The width of Tenant's fascia sign shall not exceed 80 percent of the width of Tenant's bay and shall be centered vertically and horizontally on the allocated sign area.
10. Individual illuminated channel letters shall be constructed out of aluminum with 5" returns and  $\frac{1}{4}$ " weep holes in the bottom of each letter.
11. Plexiglas faces shall be 3/16" thick and Landlord shall approve color. Trimcap to be 1" wide and color shall be approved by Landlord.
12. Each channel letter and transformer(s) to be wired behind the mounting surface.

13. Midpoint grounded installations shall not be acceptable.
14. All signs must be UL approved. All transformers must comply with NEC Article 600-23 and UL's 2161 specifications per the City of Omaha's electrical code. These transformers are also known as Ground Fault Protected Transformers. 60 MA transformers shall use all mercury (argon gas) tubing. 30MA transformers may be used on red (neon) tubing.

**Prohibited Signs:**

The following sign types or sign components will not be permitted:

1. Signs of box or cabinet type.
2. Letters using any color, style, material or placement other than those specified by criteria.
3. Signs employing exposed transformers.
4. Moving or rotating signs.
5. Signs employing moving or flashing lights.
6. Signs, letters, symbols or identification of any nature painted directly on sign or background surfaces.
7. Signs employing un-edged or uncapped letters, or letters with no returns and exposed fastenings.
8. Cloth, wood, paper or cardboard signs, stickers, decals, or painted signs around or on exterior surfaces (including doors and/or windows) of the Premises, unless approved by Landlord.
9. Freestanding signs.
10. Rooftop signs.
11. Signs employing noise-making devices or components.
12. Signs exhibiting the names, stamps, or decals of the sign manufacturer or installer.

**Submittals and Approval:**

1. Signs must be approved by the Landlord before manufacturing is begun or permits are applied for and will be reviewed for conformance with this criteria and overall design quality. Approval or disapproval of sign submittal based on aesthetics or design shall remain the sole right of the Landlord.
2. Approval of sign drawings, store design drawings or working drawings and specifications for the Premises does not constitute approval of manufacturing and installation. Landlord's written approval of Tenant's proposed sign drawings and specifications is required.
3. Tenant shall submit drawings and specifications including samples of materials and colors, if needed, for all proposed sign work to Landlord before fabrication. Three (3) sets of detailed drawings shall be submitted to Landlord. The drawings shall clearly show location, size, layout, method of attachment, design, colors, proposed graphics, logos, and position and location of sign on the building elevation. Tenant should note that approval may take two or more weeks. Full information regarding electrical load requirements and brightness in foot-lamberts is to be included for all signs.

4. Landlord shall return one (1) set of the sign drawings to the Tenant marked "Approved" "Approved as Noted," or "Disapproved". Drawings marked "Approved" or "Approved as Noted" and returned to Tenant shall need to obtain any applicable sign permit from the City of La Vista. The City of La Vista will not approve the sign permit without a drawing marked with Landlord's approval. Drawings that have been marked as "Disapproved" are to be redesigned and resubmitted to the Landlord for approval. The Landlord will retain two (2) sets of drawings.
5. No signage shall be manufactured or installed until the Landlord with the "Approved or "Approved as Noted" has returned the drawings.
6. All permits for signs and their installation shall be obtained by the Tenant or Tenant's representative and shall be signed by the Landlord prior to being sent to the City of La Vista.

**EXHIBIT "E"**  
**COPY OF EQUIPMENT PURCHASE AGREEMENT AND BILL OF SALE**  
**(FOR REFERENCE PURPOSES ONLY)**

## EQUIPMENT PURCHASE AGREEMENT

THIS EQUIPMENT PURCHASE AGREEMENT (this "Agreement") is made and entered into as of the 11<sup>th</sup> day of March, 2013 (the "Effective Date"), by and between Southport Center, LLC, a Nebraska limited liability company ("Seller") and PizzaWest, Inc., a Nebraska corporation ("Buyer"). Seller and Buyer are sometimes referred to herein separately as a "Party" and collectively as the "Parties".

### RECITALS:

WHEREAS, Seller, as Landlord, and Buyer, as Tenant, have entered into that certain Southport Center Lease of even date herewith ("Lease"), pursuant to which Buyer has leased from Seller the premises located at 12040 McDermott Plaza, Suite 300, La Vista, NE 68128 (the "Premises"); and

WHEREAS, Seller desires to sell certain equipment to be used by Buyer in the conduct of its business at the Premises, and Buyer desires to acquire such equipment upon the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer, intending to be legally bound, agree as follows:

1. Purchase and Sale. Subject to the terms and conditions of this Agreement, and conditioned upon the full execution of the Lease, Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, the equipment described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Equipment").

2. Purchase Price. The purchase price to be paid by Buyer to Seller for the Equipment shall be a fixed, lump sum amount of [REDACTED] (the "Purchase Price").

3. Payment of Purchase Price. Buyer and Seller agree that the Purchase Price shall be paid by Buyer to Seller by a check drawn on the account of Buyer to be delivered upon the full execution of this Agreement and the Lease.

4. No Assumption of Obligations. Except for the payment of the Purchase Price as set forth in this Agreement, Buyer shall assume no liabilities, cost, expenses or other obligations of any type in connection with the purchase of the Equipment.

5. Delivery. Conditioned upon (a) Buyer's receipt of the duly executed Bill of Sale (as defined in Paragraph 6 of this Agreement) and (b) Buyer's delivery of the Purchase Price to Seller, Seller shall make available to, and Buyer shall be entitled to take possession of, the Equipment at the Premises as of the Effective Date.

6. Transfer Documents. Concurrently with the execution of this Agreement, Seller shall duly execute and deliver to Buyer a bill of sale in the form of Exhibit "B" attached hereto ("Bill of Sale"), and further agrees that from and after the execution of this Agreement Seller shall execute and deliver to Buyer such other good and sufficient instruments of sale, assignment, conveyance and transfer as shall be required to effectively vest in Buyer all of Seller's right, title, and interest in and to the Equipment, free and clear of all liens, encumbrances, security interests, actions, claims and equities of any kind whatsoever.

7. Representations, Warranties and Covenants. Seller warrants, represents and covenants to and with Buyer that (a) Seller has full right and lawful authority to enter into this Agreement and to sell the Equipment and Seller's performance of its obligations under this Agreement will not violate any agreement,

document, trust (constructive or otherwise), order, judgment or decree to which Seller is a party or by which it is bound; (b) Seller is the sole and lawful owner of and has good and marketable title to all of the Equipment, and upon the sale, transfer and assignment of the Equipment to Buyer as set forth in this Agreement, Buyer shall acquire good and merchantable title to the Equipment, free and clear of any mortgage, deed of trust, pledge, lien, claim, charge, security interest, restriction, lease tenancy, other possessory interest, right of purchase, conditional sales obligation or other encumbrance of any kind (each a "Lien" and collectively, "Liens"); and (c) Mutual of Omaha Bank has agreed to release its Lien rights in and to the Equipment, and the former tenant of the Premises and previous owner of the Equipment has no Lien rights in and to the Equipment.

8. Indemnification. Seller agrees to indemnify Buyer and to hold Buyer harmless from any and all loss, damage, cost, or expense incurred or sustained by Buyer by reason of the failure of any warranty or representation covenant of Seller contained in this Agreement to be true or as a result of Seller's failure to abide by any covenant or agreement on its part contained in this Agreement.

9. Further Actions. Seller agrees to take such actions from time to time as may reasonably be necessary or advisable to confirm the title of Buyer to any of the Equipment, and the Parties hereto shall execute and deliver such additional instruments and documents as may be reasonably requested by any of them in order to carry out the purposes and intent of this Agreement and to fulfill their respective obligations.

10. Survival. The representations, warranties, and covenants of Seller contained in this Agreement shall survive the closing of this Agreement and shall be binding upon Seller and its successors and assigns.

11. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified, amended, or terminated except by a written agreement specifically referring to this Agreement and signed by all of the Parties hereto.

12. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

13. Governing Law. This agreement shall be construed in accordance with the laws of the State of Nebraska.

14. Counterparts. This Agreement may be executed in any number of counterparts and any counterpart hereof having one or more signature pages attached thereto containing in the aggregate the signatures of all of the Parties shall be deemed a fully-executed original.

IN WITNESS WHEREOF, the Parties have caused this Equipment Purchase Agreement to be executed as of the day and year first above written.

SOUTHPORT CENTER, LLC,  
a Nebraska limited liability company

PIZZAWEST, INC.,  
a Nebraska corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"

List of Equipment

**EXHIBIT "B"**

**Bill of Sale**

**(attached)**

## BILL OF SALE

THIS BILL OF SALE, dated as of March 11, 2013, is given by Southport Center, LLC, a Nebraska limited liability company ("Seller") to PizzaWest, Inc., a Nebraska corporation ("Buyer").

WHEREAS, Seller and Buyer have entered into an Equipment Purchase Agreement of even date herewith (the "Purchase Agreement"), pursuant to which Seller has conveyed to Buyer all rights, title and interests of Seller in and to the Equipment; and

WHEREAS, this Bill of Sale is being delivered by Seller to Buyer pursuant to and as required by the provisions of the Purchase Agreement.

NOW THEREFORE, in consideration of the foregoing and the consideration provided for in the Purchase Agreement, the receipt and sufficiency of which is hereby acknowledged, Seller, intending to be legally bound, agrees as follows:

1. Definitions. All terms used herein shall have the meanings assigned to them in the Purchase Agreement unless otherwise defined herein.

2. Effective Date. This Bill of Sale shall become effective upon the date first set forth above.

3. Transfer. As of the Effective Date, Seller does hereby transfer, sell, convey, assign, set over and deliver to Buyer, free and clear of all Liens, all of Seller's rights, title and interests in and to the Equipment described on Exhibit "A" attached hereto.

4. Further Assurances. Seller agrees that it will from time to time, at Buyer's request and without further cost or expense to Buyer, execute and deliver to Buyer such other instruments of conveyance and transfer and other documents and take such other action as Buyer may reasonably request to vest in Buyer clear ownership of the Equipment, and to enable Buyer to realize upon or otherwise to enjoy the Equipment, and to carry into effect the intent and purpose hereof.

5. Governing Law. This Bill of Sale shall be construed, interpreted, and enforced in accordance with the laws of the State of Nebraska.

6. Interpretation. In the event of any conflict or inconsistency between the terms, provisions and conditions of this Bill of Sale and the Purchase Agreement, the terms, provisions and conditions of the Purchase Agreement shall govern.

[Remainder of Page Intentionally Blank. Signature Page Follows.]

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first set forth above.

SOUTHPORT CENTER, LLC,  
a Nebraska limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_ REC'D

MAR 16 2013

NEBRASKA LIQUOR  
CONTROL COMMISSION

STATE OF NEBRASKA      )  
                            ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Bill of Sale was acknowledged before me this \_\_\_\_ day of March, 2013, by John L. Hoich, on behalf of and as an authorized Member of Southport Center, LLC, a Nebraska limited liability company.

My Commission Expires:

\_\_\_\_\_  
Notary Public

**Exhibit "A"**

**RECEIVED**

**Equipment**

**MAR 15 2013**

**NEBRASKA LIQUOR  
CONTROL COMMISSION**

**EXHIBIT "F"**  
**TENANT WORK; INITIAL TENANT IMPROVEMENTS**

**Work in Restrooms:**

- Tile bathroom walls to 4' high
- new bath sinks and faucets
- new bath countertops
- new dividers
- new bath lighting and mirrors
- in wall hand towel racks and garbage

**Work in Restaurant:**

- 35' Dividing Wall (between bar and restaurant area)
- Elevate booths and add railing
- New lighting fixtures
- Rail to divide restaurant from pool table area
- Wainscoat in entry

RECEIVED

**EXHIBIT "G"**  
**TENANT'S PRE-APPROVED SIGNAGE**

May 16 2003  
**NEBRASKA LIQUOR  
CONTROL COMMISSION**

RECEIVED

Mar 15 2013

NEBRASKA LIQUOR  
CONTROL COMMISSION

**PIZZAWEST, INC.**  
**SOUTHPORT CENTER LA VISTA**  
**Business Plan**

Concept

Operation of a family pizza and pasta restaurant with a sports bar located in a growing high traffic area in Sarpy County. Develop a reputation for high quality food and service.

Business Plan

Full service restaurant with dine in, take out, delivery and catering service. Food sales expected to represent approximately seventy percent (70%) of gross revenue. Restaurant to include two (2) party rooms for meetings and group gatherings.

Estimated Hours of Operation

Sunday through Thursday: 11:00 a.m.-11:30 p.m.  
Friday and Saturday: 11:00 a.m. to Midnight

Key Personnel

Owners have strong and diverse business backgrounds, including one owner with over ten (10) years of experience in the restaurant industry, including as general manager of a national restaurant chain, who will serve as the manager of the restaurant and liquor operations.

RECEIVED

5/15/2013  
NEBRASKA LIQUOR  
CONTROL COMMISSION

FREDERICK S. CASSMAN, OF COUNSEL  
HOWARD J. KASLOW  
JOHN W. HERDZINA  
HARVEY B. COOPER  
RANDALL C. HANSON  
R. CRAIG FRY  
TIMOTHY M. KENNY  
ERIC H. LINDQUIST  
THOMAS J. MALICKI  
AARON D. WEINER  
JEFFREY J. BLUMEL  
NICHOLAS T. DAFNEY  
JAMES A. TEWS  
ROBERT M. SCHARTZ\*



8712 WEST DODGE ROAD, SUITE 300 • OMAHA, NEBRASKA 68114-3450  
(402) 392-1250 • FAX: (402) 392-0816  
[www.akclaw.com](http://www.akclaw.com)

NICOLE SECKMAN JILEK  
JENNIFER L. RATTNER\*  
NATHANIEL J. WARNOCK  
RYAN M. KUNHART  
KATHRYN A. KOTLIK

MILTON R. ABRAHAMS  
1905-2000

BEN E. KASLOW  
1907-1993

FRANK F. POSPISHIL  
1942-2009

\* ALSO ADMITTED IN IOWA

March 14, 2013

**VIA PERSONAL DELIVERY**

Ms. Mary Messman  
Nebraska Liquor Control Commission  
301 Centennial Mall South  
PO Box 95046  
Lincoln, NE 68509-5046

Re: PizzaWest, Inc.  
Application for Liquor License

Dear Mary:

Our office represents PizzaWest, Inc., a Nebraska corporation ("PizzaWest"). PizzaWest desires to obtain a Class I Liquor License from the Nebraska Liquor Control Commission for a restaurant establishment to be located at 12040 McDermott Plaza, Suite 300 in La Vista, Nebraska (the "Business Premises"). For the purpose of applying for the Class I Liquor License for PizzaWest, the following application documents, fingerprint cards and payments have been enclosed:

1. An Application for Liquor License Checklist along with the Application for Liquor License – Retail and a check payable to the Liquor Control Commission in the amount of \$400.00.
2. An Application for Liquor License Corporation Insert (Form 3a).
3. A Manager Application Insert (Form 3c).
4. An Spousal Affidavit of Non Participation Insert executed by Mary DeRouchey.
5. A filed-stamped copy of the Articles of Incorporation of PizzaWest.
6. A copy of the lease between PizzaWest and the owner of the Business Premises, Southport Center, LLC.

NTD/412938.1

OMAHA AFFILIATE OF  MERITAS LAW FIRMS WORLDWIDE

ndafney@akclaw.com

Nebraska Liquor Control Commission

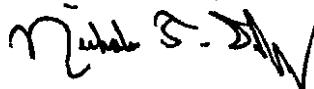
2

March 14, 2013

7. Fingerprint cards (one set of two cards) for (i) James DeRouchey, as PizzaWest's President and as a shareholder owning 90% of the corporation's issued and outstanding shares of common stock and (ii) Jeffrey Evans as the Manager applicant for Licensed Premises, along with a check payable to the Nebraska State Patrol in the amount of \$76.00.
8. Birth Certificate copy as Proof of Identify/Citizenship of Jeffrey Evans.
9. Business Plan for PizzaWest, Inc.

Please contact me if you have any questions regarding the enclosed documents or anything else in this matter. Thank you for your assistance.

Very truly yours,



Nicholas T. Dafney  
For the Firm

Enclosures

RECEIVED  
MARCH 15 2013  
NEBRASKA LIQUOR  
CONTROL COMMISSION

FREDERICK S. CASSMAN, *OF COUNSEL*  
HOWARD J. KASLOW  
JOHN W. HERDZINA  
HARVEY B. COOPER  
RANDALL C. HANSON  
R. CRAIG FRY  
TIMOTHY M. KENNY  
ERIC H. LINDQUIST  
THOMAS J. MALICKI  
AARON D. WEINER  
JEFFREY J. BLUMEL  
NICHOLAS T. DAFNEY  
JAMES A. TEWS  
ROBERT M. SCHARTZ\*



8712 WEST DODGE ROAD, SUITE 300 • OMAHA, NEBRASKA 68114-3450  
(402) 392-1250 • FAX: (402) 392-0816  
[www.akclaw.com](http://www.akclaw.com)

NICOLE SECKMAN JILEK  
JENNIFER L. RATTNER\*  
NATHANIEL J. WARNOCK  
RYAN M. KUNHART  
KATHRYN A. KOTLIK

MILTON R. ABRAHAMS  
1905-2000

BEN E. KASLOW  
1907-1993

FRANK F. POSPISHIL  
1942-2009

\* ALSO ADMITTED IN IOWA

March 18, 2013

Ms. Michelle Porter  
Licensing Division  
Nebraska Liquor Control Commission  
301 Centennial Mall South  
PO Box 95046  
Lincoln, NE 68509-5046

RECEIVED  
MAR 18 2013  
NEBRASKA LIQUOR  
CONTROL COMMISSION

Re: PizzaWest, Inc.  
Application for Liquor License

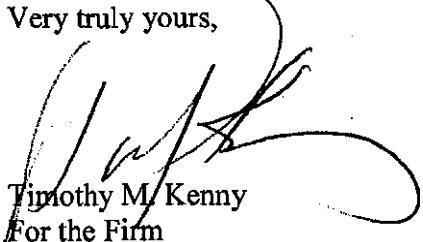
Dear Michelle:

As you know this office represents PizzaWest, Inc., a Nebraska corporation ("PizzaWest"). PizzaWest has applied for a Class I Liquor License from the Nebraska Liquor Control Commission for a restaurant establishment to be located at 12040 McDermott Plaza, Suite 300 in La Vista, Nebraska (the "Business Premises"). In response to your email request made today to Nick Dafney and in furtherance of the application, enclosed find fingerprint cards from Ms. Mary DeRouchey, spouse of Mr. James DeRouchey, together with a check in the amount of \$38.00.

Also, please consider this letter to serve as the withdrawal of the non-participation/no interest affidavit that was enclosed with the application. I understand from our conversation today that this will complete all documentation necessary to permit the processing of the application; however, if there is anything additional you may need please feel free to contact Nick or me.

Thank you for your help.

Very truly yours,



Timothy M. Kenny  
For the Firm

Enclosures

NTD/412938.2

**SPOUSAL AFFIDAVIT OF  
NON PARTICIPATION INSERT**

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.ne.gov](http://www.lcc.ne.gov)

Office Use

RECEIVED

MAR 16 2013

NEBRASKA LIQUOR  
CONTROL COMMISSION

I acknowledge that I am the spouse of a liquor license holder. My signature below confirms that I will have not have any interest, directly or indirectly in the operation or profit of the business (§53-125(13)) of the Liquor Control Act. I will not tend bar, make sales, serve patrons, stock shelves, write checks, sign invoices or represent myself as the owner or in any way participate in the day to day operations of this business in any capacity. I understand my fingerprint will not be required; however, I am obligated to sign and disclose my information on all applications needed to process this application.

*WHD*  
Signature of spouse asking for waiver  
(Spouse of individual listed below)

Mary DeRouchey

Printed name of spouse asking for waiver

State of Nebraska

County of Douglas

March 8, 2013

date

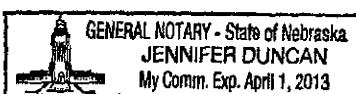
*Jennifer Duncan*  
Notary Public signature

by

The foregoing instrument was acknowledged before me this  
Mary DeRouchey

name of person acknowledged

Affix Seal



I acknowledge that I am the spouse of the above listed individual. I understand that my spouse and I are responsible for compliance with the conditions set out above. If it is determined that the above individual has violated (§53-125(13)) the Commission may cancel or revoke the liquor license.

*JM*  
Signature of individual involved with application  
(Spouse of individual listed above)

Printed name of applying individual

State of Nebraska

County of Douglas

*March 8, 2013*

date

*Jennifer Duncan*  
Notary Public signature

by

The foregoing instrument was acknowledged before me this

James M. DeRouchey

name of person acknowledged

Affix Seal



In compliance with the ADA, this spousal affidavit of non participation is available in other formats for persons with disabilities. A ten day advance period is requested in writing to produce the alternate format.