

Office Use Only:

Date Pmt Rec'd: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_ Check No: \_\_\_\_\_

Does application meet all applicable zoning by-laws? \_\_\_\_\_

## TOWN OF NATICK

### COMMON VICTUALER LICENSE APPLICATION

For Calendar Year 2018 Date Submitted \_\_\_\_\_

☒ New

☐ Renewal

The undersigned hereby applies for a Common Victualer License in accordance with the provisions of the Statutes relating thereto:

☒ Common Victualer License Only

☐ Common Victualer with Liquor License

Name of Person, Firm, or Corporation Making Application:

OSHIBI GROUP, LLC

Name of Establishment (d/b/a) Red mango

Address of Establishment 1245 Worcester St Suite 2042, Natick MA 01760

Mailing address (if different from establishment) same as establishment

62 Rockland St N Easton MA 02356

Contact Person (to whom ALL licensing information will be sent, including renewal notice and license)

Hyeri Yi

Email Address redmango617@gmail.com Phone 617-543-8277

Manager of Establishment Hyeri Yi

Email Address redmango617@gmail.com Phone 617-543-8277

If Business is a Corporation, Corporate Name and Officers NA

If Business is an LLC, List of Members Hyeri Yi

Establishment's Days and Hours of Operation Monday - Saturday 10Am-9pm, Sunday 11Am-6pm

Number of Staff 4 Number of Seats 11

Has a Certificate of Occupancy been issued? N If not, expected date of issuance \_\_\_\_\_

Have Board of Health Permits been issued? N If not, expected date of issuance \_\_\_\_\_

**Additional Information Requested by the Town of Natick Police Department for Background Check:**

Applicant's Social Security Number or Employee I.D. Number \_\_\_\_\_

Date of Birth 01/04/1972

I, the Undersigned, state that the information provided in this application, and associated attachments, is true and accurate to the best of my knowledge.

Furthermore, Pursuant to MGL Ch. 62C, Sec 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Signature of Applicant *Hyari Yi* Date 3/24/2018

By Corporate Officer *HA Hyari Yi* Date 3/24/2018  
(If applicable) HY 3/24/18

**Please submit the following with your application:**

1. Proof of Workers Compensation Insurance (if applicable)
2. Workers' Compensation Insurance Affidavit
3. Set of floor plans and site plan\*\*\* (If renewing a license and changes have been made to the premises in the previous 12 months, a revised set of floor plans and site plan must be submitted)
4. List of equipment and estimated cost\*\*\*
5. Copy of Bill of Sale or Lease Agreement\*\*\*
6. If a Corporation, a copy of Articles of Organization; if an LLC, a copy of the Membership Agreement and list of members\*\*\*
7. \$75.00 Application fee (checks made payable to the Town of Natick)

\*\*\* New Applicants Only (see exception for item #3)



**UTICA NATIONAL INSURANCE GROUP**  
180 Genesee Street  
New Hartford, NY 13413

WC 000001A

**Issuing Company:** Utica National Assurance Company  
MEMBER OF UTICA NATIONAL INSURANCE GROUP

## WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

**Information Page**

**1. The Insured and Mailing Address:**

Oshibi Group LLC DBA Red Mango  
c/o Hyeri Yi  
62 Rockalnd Street  
NORTH EASTON MA 02356

**Policy Number:** 5128679

**Prior Policy Number:**

**Producer:** G B Nickerson Ins Agy Inc  
321 Boston Post Rd, Suite 4c  
Sudbury, MA 01776

**Entity of Insured:** LLC

**Producer Number:** 70124

**Other workplaces not shown above:**

**SIC#:** 58127

**Insured's I.D. Number:** 824671797

**NCCI Company Number:** 36587

**Risk I.D. Number:**

**2. The policy period is from** 05/01/2018 **to** 05/01/2019 **12:01 AM Standard Time at the insured's mailing address.**

**3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here:** MA

**B. Employers Liability Insurance: Part Two of the policy applies to work in each state listed in Item 3.A. The limits of our liability under Part Two are:**

Bodily Injury by Accident	\$1,000,000	Each Accident
Bodily Injury by Disease	\$1,000,000	Policy Limit
Bodily Injury by Disease	\$1,000,000	Each Employee

**C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here:**

All States except those listed in Item 3.A., ND, OH, WA, WY

**D. This policy includes these endorsements and schedules:**

**4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.**

<input type="checkbox"/> See Extension of Information Page Classifications	Code No.	Premium Basis Total est. Annual Remuneration	Rate Per \$100 of Remuneration	Estimated Annual Premium
Minimum Premium: \$ 216 MA		Expense Constant		\$
Employer's Liab Minimum Premium: \$		Total Estimated Annual Premium		\$ 733
If indicated below, interim adjustments of premium shall be made:		Deposit Premium		\$ 733

**Issuing Office:** New Hartford, NY 13413

**Date of Issue:** 03-29-2018

**Countersigned by**

*Shannon C Peck*

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY  
EXTENSION OF INFORMATION PAGE**

Item 4. Continued

Page: 1

NCCI Company Number: 36587

Policy Number: 5128679

Classifications	Code No.	Premium Basis Total Est. Annual Remuneration	Rate Per \$100 of Remuneration	Estimated Annual Premium
State: MA    Location #:1 Store: Retail Noc (8017) 8017 Term: ( 05/01/18-05/01/19 )	8017	40,000 S	1.07	\$428
Term: ( 05/01/18-05/01/19 )				
Manual Premium				\$428
Rate Deviation	9037		- .20	-\$86
Employers Liability	9812		2%	\$7
Employers Liability to Minimum	9848			\$68
Waiver of Subrogation	0930		.040	\$14
Subject Premium				\$431
Standard Premium				\$431
Loss Constant	0032			\$20
Expense Constant	0900			\$250
Certified Acts of Terrorism (CAOT)	9740		.0300	\$12
DIA Assessment			.0456	\$20
<b>Total State Premium</b>				<b>\$733</b>



**The Commonwealth of Massachusetts**  
**Department of Industrial Accidents**  
**1 Congress Street, Suite 100**  
**Boston, MA 02114-2017**  
**www.mass.gov/dia**

**Workers' Compensation Insurance Affidavit: Builders/Contractors/Electricians/Plumbers.**  
**TO BE FILED WITH THE PERMITTING AUTHORITY.**

**Applicant Information**

**Please Print Legibly**

Name (Business/Organization/Individual): Red Mango/ OSHIBI GROUP LLC/ Hyeri Yi

Address: 1245 Worcester St, Suite 2042

City/State/Zip: Natick/ MA/ 01760

Phone #: 617-543-8277

Are you an employer? Check the appropriate box:

1. ☒ I am an employer with 4 employees (full and/or part-time).\*
2. ☐ I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required.]
3. ☐ I am a homeowner doing all work myself. [No workers' comp. insurance required.]†
4. ☐ I am a homeowner and will be hiring contractors to conduct all work on my property. I will ensure that all contractors either have workers' compensation insurance or are sole proprietors with no employees.
5. ☐ I am a general contractor and I have hired the sub-contractors listed on the attached sheet. These sub-contractors have employees and have workers' comp. insurance.‡
6. ☐ We are a corporation and its officers have exercised their right of exemption per MGL c. 152, §1(4), and we have no employees. [No workers' comp. insurance required.]

**Type of project (required):**

7. ☐ New construction
8. ☐ Remodeling
9. ☐ Demolition
10. ☐ Building addition
11. ☐ Electrical repairs or additions
12. ☐ Plumbing repairs or additions
13. ☐ Roof repairs
14. ☐ Other \_\_\_\_\_

\*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.

†Homeowners who submit this affidavit indicating they are doing all work and then hire outside contractors must submit a new affidavit indicating such.

‡Contractors that check this box must attach an additional sheet showing the name of the sub-contractors and state whether or not those entities have employees. If the sub-contractors have employees, they must provide their workers' comp. policy number.

***I am an employer that is providing workers' compensation insurance for my employees. Below is the policy and job site information.***

Insurance Company Name: Utica National Insurance Group

Policy # or Self-ins. Lic. #: 5128679

Expiration Date: 5/1/2019

Job Site Address: 1245 Worcester St, Suite 2042 City/State/Zip: Natick/MA/01760

**Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).**

Failure to secure coverage as required under MGL c. 152, §25A is a criminal violation punishable by a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. A copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

***I do hereby certify under the pains and penalties of perjury that the information provided above is true and correct.***

Signature: Hyeri Yi

Date: 3/30/2018

Phone #: 617-543-8277

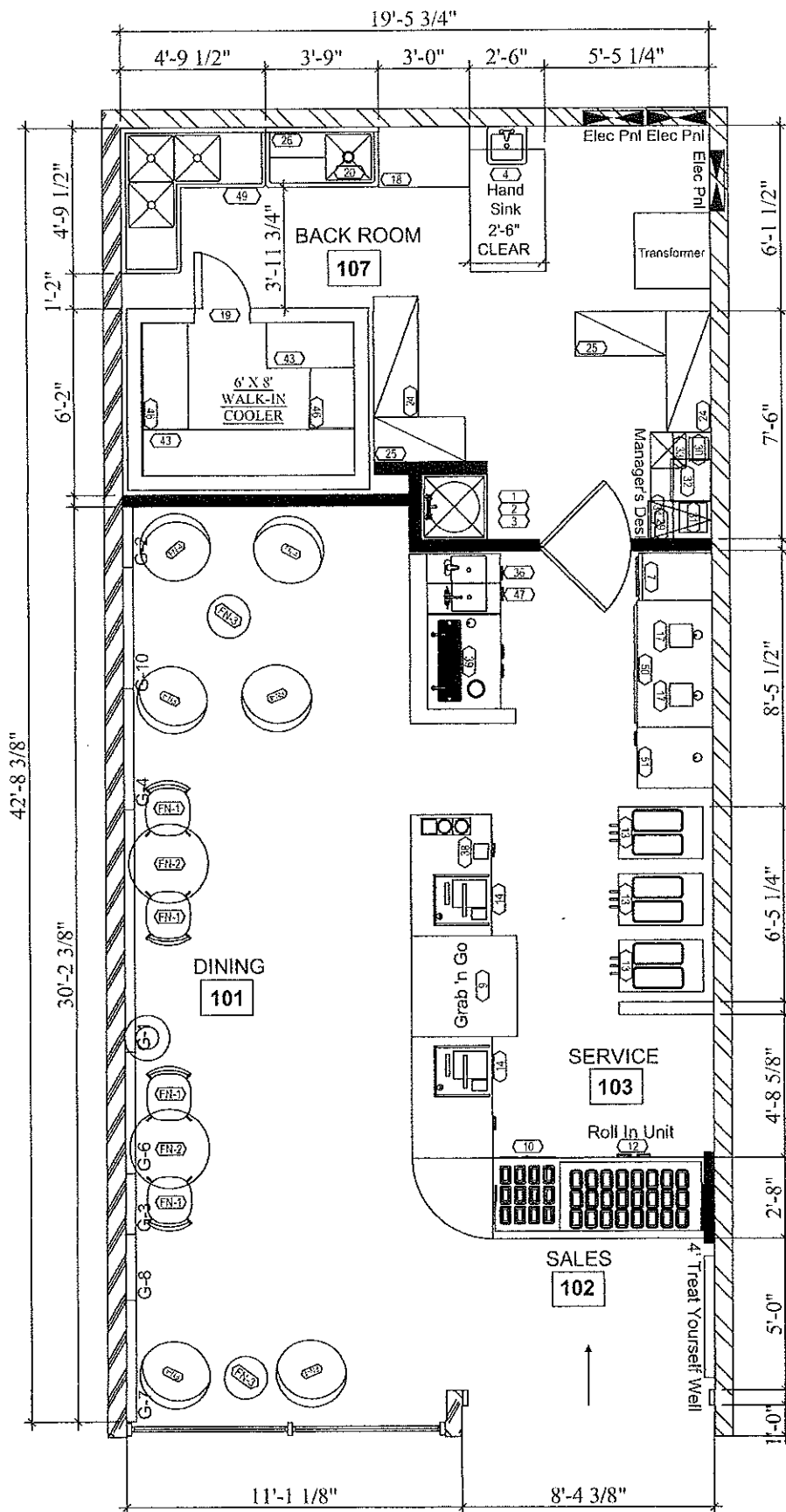
**Official use only. Do not write in this area, to be completed by city or town official.**

City or Town: \_\_\_\_\_ Permit/License # \_\_\_\_\_

Issuing Authority (circle one):

1. Board of Health 2. Building Department 3. City/Town Clerk 4. Electrical Inspector 5. Plumbing Inspector  
6. Other \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone #: \_\_\_\_\_



Design Intent Layout  
 NOT TO SCALE

2.1.10

1245 Worcester Street, Suite 2042  
 Natick Mall  
 Natick, MA 01760

878 SF

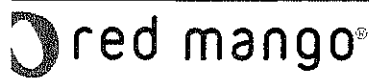
**red mango®**

FOOD SERVICE EQUIPMENT LIST  
FOR  
RED MANGO - CEDAR SPRINGS

FOOD SERVICE EQUIPMENT LIST					
ITEM NO.	EQUIPMENT DESCRIPTION	MODEL/MFG.	SIZE (WxDxH)	INSTALLATION RESPONSIBILITY	REMARKS
1	Stainless Steel Map and Brown Rack	#223 x 24, Seabak Stainless Equipment, Inc.	24"x24"	Provided and installed by General Contractor	Mount @ 9" below underside of outer leather padding
2	Map Sink	#2000-24, Zurn Light Commercial Plumbing Products	24x24x10	Provided and installed by General Contractor	
	Faucet (goosene faucet, spot w/ threaded outlet, and bronze end polished)	#2343K1, Zurn Light Commercial Plumbing Products	N/A	Provided and installed by General Contractor	
3	Electric Water Heater	See Plumbing Drawings	See Plumbing Drawings	Provided and installed by General Contractor	Provide drain pan w/ overflow drain piping to mop sink
4	Hand Sink w/ Faucet	#880-1480-BMT, Action Sales	15-3/4"x13"	Provided by RM and installed by General Contractor	
	Towel Dispenser and Soap Dispenser	#1407BK, San Janitor®	6.5"x11.825"	Provided and installed by RM Vendor	*Towel towel dispenser can be provided by Syco and installed by GC; countertop dispensing unit using 8" diam. roll
		#3007BK, San Janitor®	4.5"x3.75"x10.5"	Provided and installed by RM Vendor	*Soap dispenser can be provided by Ecolab through Syco and installed by Ecolab; use RM roll soap-dispensing soap
5	Metal Lockers (2-use)	Provided by Red Mango	12"x15"x18"	Provided and installed by RM Vendor	*Installed to verify size of locker compartment required by building/health departments
6	Double Swing Self-Closing Door w/ 18"1/4" x 18"1/4" glass	A-89-4, Olean Door, Match with color	30"x64"x1"	Provided and installed by General Contractor	*Installed to specify door plastic laminate color to match rest of door; laminate to be 18 gc stainless steel
7	Aluminum Sink and Built-in Storage Bin	#04-0340, Hoshizaki America, Inc.	18"x24"x20"	Provided and set in-place by RM Vendor*	*General Contractor to provide final plumbing connections
8	Water Filter	MC-1, Hoshizaki America, Inc.	3" diam. x 30"	Provided and set in-place by RM Vendor*	*General Contractor to provide final plumbing connections
9	Quick 'n' Go Chest	Metabo Solutions AST-41	41x23.8"x23.5"x15.5"	Provided and installed by RM Vendor	
10	Dry Topping Containers (Bak Mats)	#BMT2, Broom Hides	4.875" diam. x 15"	Provided and installed by RM Vendor	Containers 01 in toppling for monitoring; network vendor to verify dimensions for countertop cut-out
11	Showerhead	Part of fixture package	N/A	Provided and installed by RM Vendor	Integrate with fixture around of refrigerated topping bar
12	Refrigerated Prep Table w/ Refrigerator below (Built-in Topping Bar)	#F48-125, Carter/Denverco-Air	44"x23"x41.125" (35.5" to prep table surface)	Provided and installed by RM Vendor	Fix in fixture around
13	Soft Serve Freezer	#784, Taylor Company	26"x30.25"x20"	Provided and installed by Taylor, see PlanSheet	*Contractor to be present during installation of equipment
14	PDS and Receipt Printer	#PDS 2010/MS 5, Micra	See Equipment Specifications	Provided and installed by Micra Vendor	DLS service required for installation of equipment
15	PDS Cash Drawer	1x 7in Cash Drawer, Micra	See Equipment Specifications	Provided and installed by Micra Vendor	Fix under counter
16	Child Cocking System	N/A	N/A	N/A	
17	Blender	13A, Q-Series, Blendtec	9"x9"x17"	Provided and installed by RM Vendor	
18	Stainless Steel Work Table w/ Underhaul	#TDS-2430, Aero Manufacturing Company	30"x24"x34"	Provided and installed by RM Vendor	*To agree on approved by Red Mango, Inc.
19	W6-In Cooler	#087706, Inc-Lake, Inc.	6'-0"x15'-0"x7'-7"	Provided and installed by RM Vendor	
20	1-comp Prep Sink w/ Drainboard	#986-16-17-10-N, Action Sales	24"x10"x15" (26" to drainboard surface)	Provided and set in-place by RM Vendor*	*General Contractor to provide final plumbing connections
	8" Backsplash Control Valve w/ 2" Sheld Spout Faucet	#1353 w/ #3061, Fisher Manufacturing Company	See Equipment Specifications	Provided and set in-place by RM Vendor*	*General Contractor to provide final plumbing connections
21	Pre-rinse w/ 12" Sheld Spout Faucet	#4383, Fisher Manufacturing Company	See Equipment Specifications	Provided and set in-place by RM Vendor*	Pre-rinse unit may arrive as assembled unit or component parts requiring assembly as part of installation
					*General Contractor to provide final plumbing connections
22	SL, SL, 3-comp Sink w/ Drainboards each side	#986-16-27-20, Action Sales	34"x24"x10" (26" to drainboard surface)	Provided and set in-place by RM Vendor	
23	SL, SL, 3-comp Sink w/ Drainboards each side	Action Sales	57.5"x24"x10"	Provided and set in place by RM Vendor	
24	Adj. Zinc Wire Shelving (48" Wide)	SHELF-290, Action Sales	48"x18"x8"	Provided and installed by RM Vendor	
25	Adj. Zinc Wire Shelving (36" Wide)	SHELF-290-103, Action Sales	36"x18"x8"	Provided and installed by RM Vendor	

FOOD SERVICE EQUIPMENT LIST  
FOR  
RED MANGO - CEDAR SPRINGS

FOOD SERVICE EQUIPMENT LIST					
ITEM NO.	EQUIPMENT DESCRIPTION	MODEL/MFG.	SIZE (WxDxH)	INSTALLATION RESPONSIBILITY	REMARKS
26	SL, SL, 3-comp Sink w/ Drainboards each side (48" Wide)	#986-1448336, Action Sales	48"x14"	Provided and installed by RM Vendor	
27	SL, SL, 3-comp Sink w/ Drainboards each side (36" Wide)	#986-1436336, Action Sales	36"x14"	Provided and installed by RM Vendor	
28	SL, SL, 3-comp Sink w/ Drainboards each side	Provided by RM	20"x18" (approx.)	Provided and installed by RM Vendor	
29	2-Drawer File Cabinet w/ Lock	(Part of Staples office supplies order)	15"x25"x20"	Provided and installed by RM Vendor	File under Manager's desk
30	Main Player	Provided by RM	6"x12"x6" (approx.)	Provided and installed by DMO Vendor	Player is proprietary and is required; speakers and amp are preferred, but not required; use space for speaker and amp controls
31	Printer/Fax	#P2010, Hewlett Packard	17.0"x15.2"x5.5"	Provided and installed by RM Vendor	Fix on shelf above desk
32	Digital Video Recorder	Provided by ADP	14"x10"x2" (approx.)	Provided and installed by ADP	*Security system vendor is RM's choice; ADP is preferred vendor
33	Cash Safe	#0020-002, Amstar	14"x14"x20"	Provided by RM and installed by General Contractor	Fix under Manager's desk
34	Manager's Desk	Built-in counter by GC	Field verify dimensions	Provided and installed by General Contractor	*RM choice to provide free-standing desk; minimum size to be 36"x24"
35	Dirty Towel Storage	Provided by RM	20" Diam.	Provided and installed by RM	
36	Drop-In Hand Sink	#S-10-14-6.5-1, Eagle Group (w/ goosene faucet and strainer)	10"x14"x8.5" (bowl size)	Provided and installed by RM Vendor	*General Contractor to provide final plumbing connections
	Towel Dispenser and Soap Dispenser	#1407BK, San Janitor®	6.5"x11.825"	Provided and installed by RM Vendor	*Towel towel dispenser can be provided by Syco and installed by GC; countertop dispensing unit using 8" diam. roll
		#3007BK, San Janitor®	4.5"x3.75"x10.5"	Provided and installed by RM Vendor	*Soap dispenser can be provided by Ecolab through Syco and installed by Ecolab; use RM roll soap-dispensing soap
37	BOH Computer (Uninterrupted Power Source)	Provided by Micra	13.4"x15"x3.94" (#3700)	Provided and installed by Micra Vendor	Fix on desk or on shelf above desk
		#PC Base-1P, 500 VA (Part of Staples order)	3.5"x11.2"x6.5"	Provided by RM Vendor and installed by Micra Vendor	Fix on desk or on shelf above desk
	17" Microstream LCD Monitor	#M17, Compex Frontiers (Part of Staples order)	6"x18"x20"	Provided by RM and installed by Micra Vendor	Fix on desk
38	PDS Label Printer	#PL-190, Epson	5.5"x5.5"x4"	Provided and installed by Micra Vendor	Fix on counter
39	Glove Filter w/ Sink Assembly	#GKF, Fisher Manufacturing Company	10.125"x6.5"x10"	Provided and set in-place by RM Vendor	*General Contractor to provide final plumbing connections
40	Cup Dispenser	#4100, San Janitor	5.75"x13.75"	Provided and installed by RM Vendor	Installed in microwave by Micra Vendor
41	Cup Dispenser	#3010, San Janitor	3.25"x13.75"	Provided and installed by RM Vendor	Installed in microwave by Micra Vendor
42	Hot Water	N/A	N/A	N/A	
43	Adj. Epoxy-coated Wire Shelving (48" Wide)	#S4LF-08-1800, Action Sales	50"x18"x8"	Provided and installed by RM Vendor	
44	Adj. Epoxy-coated Wire Shelving (48" Wide)	N/A	N/A	Provided and installed by RM Vendor	
45	Adj. Epoxy-coated Wire Shelving (36" Wide)	N/A	N/A	Provided and installed by RM Vendor	
46	Adj. Epoxy-coated Wire Shelving (24" Wide)	S4LF-08-1804, Action Sales	24"x18"x8"	Provided and installed by RM Vendor	
47	Drop-In Hand Sink	#S-10-14-6.5-1, Eagle Group (w/ goosene faucet and strainer)	10"x14"x8.5" (bowl size)	Provided by RM Vendor and installed by General Contractor	
48	Counter-mounted Spinkboard	Provided as part of fixture package	20"x18"x1" (approx.)	Provided and installed by RM Vendor	
49	Adj. Epoxy-coated Wire Shelving (24" Wide)	N/A	N/A	Provided and installed by RM Vendor	
50	Undercounter Refrigerator (40")	#UC-48, Eco	48.5"x20.25"x20.75"	Provided and installed by RM Vendor	
51	Storage Cabinet	N/A	24"x20"x20.75"	Provided and installed by RM Vendor	



1245 Worchester Street, Suite 2042 - Natick Mall  
Natick, MA 01760

Equipment List  
2.1.10

List of Equipment and Estimated Cost

POS System \$5000.

Three Taylor Yogurt Machines \$10,000 (each)

Walking Cooler \$4000.

Grab N Go \$1000.

Ice Machine \$4000.

Two Blenders \$500. (each)

One door small refrigerator \$600.

Two doors refrigerators(two) \$800.(each)

Safe \$300.



## SHORT FORM LEASE AGREEMENT

THIS SHORT FORM LEASE AGREEMENT (hereinafter referred to as the "Lease"), dated March 9, 2018 (the "Effective Date"), is by and between **NATICK MALL, LLC**, a Delaware limited liability company (the "Landlord"), and **OSHIBI GROUP, LLC**, a Massachusetts limited liability company (the "Tenant").

Tenant is desirous of entering into a short term lease for the operation of a **Red Mango** (the "Trade Name") retail location at **Natick Mall**. In consideration of good and valuable consideration (the receipt and sufficiency of which are acknowledged) the parties agree as follows:

1. **Leased Premises:** Landlord leases to Tenant and Tenant leases from Landlord certain space consisting of approximately 869 square feet commonly referred to as **2042** and which is shown on the attached Exhibit A (the "Leased Premises") located at **Natick Mall**, in the City of **NATICK**, State of **Massachusetts** (the "Shopping Center").
2. **Term:** The term of this Lease shall commence on the Effective Date and shall expire on **June 30, 2020** (the "Expiration Date") and shall be known as the "Term." In no event shall Landlord deliver possession of the Leased Premises to Tenant prior to **May 1, 2018**. Tenant shall open for business to the public no later **May 1, 2018** (the "Opening Date").
3. **Rent:** Rental Payments shall begin to accrue on the earlier of the Opening Date or the date on which Tenant opens the Leased Premises for business to the public ("Rental Commencement Date").

a. **Monthly Rental:** On the first day of each month of the Term, Tenant shall pay Landlord a monthly rental ("Monthly Rental") which amount shall be as follows:

**Rental Commencement Date - 6/30/2020 \$55,972.29 per year (\$4,664.36 per month)**

b. **Percentage Rental:** Tenant shall pay Landlord **10%** of Net Sales in excess of the Monthly Sales Base as shown below ("Percentage Rental"). Percentage Rental shall be due and payable within twenty (20) days after the end of each month or partial month, based on Net Sales for the immediately preceding calendar month. Tenant will deliver to Landlord a statement of each month's sales with Tenant's payment of Monthly Rental. Net Sales during any calendar month in which Tenant does not continuously and without interruption conduct its business shall be treated in accordance with applicable provisions of the Lease.

**Rental Commencement Date - 6/30/2020 \$550,000 per year (\$45,833.33 per month)**

**The parties hereto acknowledge that the Annual Sales Base is not a natural breakpoint**

c. Net Sales shall include (as of the date of the transaction) the entire amount of the sale price of all goods and merchandise sold (including gift and merchandise certificates when redeemed), leased, rented or licensed and the charges for all services and all other receipts in, upon or from any part of the Leased Premises or as a result of Tenant's agreement, if any, to link its website to the Shopping Center's website, whether (wholly or partially) for cash or credit, and shall include sales from vending machines (including but not limited to mechanical and electronic machines, except telephone and postage stamp machines); mail and telephone orders received or filled at the Leased

Premises; equipment leased; reimbursements; uncollected and uncollectible credit accounts and bank checks and charges for bank credit cards; all deposits not refunded to purchasers; orders taken, although the orders may be filled elsewhere (including, but not limited to, orders which are accepted or transmitted by means of electronic, telephonic, video, computer or other electronic or technology based system, regardless of whether the orders are accepted or filled at the Leased Premises or accepted or filled by Tenant or its parent, subsidiary or affiliate at any other location); all monies or other things of value which Tenant is entitled to receive. The following shall be deducted or excluded, as the case may be, from Net Sales, provided such exclusions are specifically itemized: (a) refunds to customers to the extent that such refunds relate to (i) a prior inclusion of the same transaction or (ii) returns of merchandise purchased from other physical store locations of Tenant; (b) sales, use, excise, retailer's, occupation or similar taxes imposed in a specific amount, or percentage upon, or determined by, the amount of sales; (c) interest, service, finance or sales carrying charges paid by customers for extension of credit on sales, if not included in the merchandise sale price; (d) returns to shippers and manufacturers; (e) sales not in the ordinary course of Tenant's business, of machinery or equipment which Tenant has the right to remove from the Leased Premises; and (f) the value of any exchange or transfer of merchandise between stores of Tenant if it is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at, or from the Leased Premises.

d. Tenant agrees to accurately record all sales in accordance with generally accepted accounting practices (showing all of its sales separately from its other stores), and to maintain sufficient original records which accurately summarize all transactions relating to the Leased Premises (including the sales of any subtenant, licensee or concessionaire). Original records shall include but not be limited to: sales documents, sequentially numbered tapes and readout totals of cash registers or point of sale devices, sales returns and allowance detail, cash receipts, payroll journals, accounts receivable, disbursement journals, bank statements, deposit slips, inventory records, purchase orders, receiving records, sales journals or daily sales reports, orders accepted by means of electronic, telephonic, video, computer or another electronic or other technology based system, state sales and use tax returns (and all documentation used to prepare the returns), and a complete general ledger. Documentation and itemization of specific sales exclusions shall also be maintained. Records shall be preserved (properly totaled) by Tenant either (a) at the Leased Premises or (b) at the home or regional offices of Tenant (provided Landlord shall be notified in writing of the address at which the records are maintained) and made available to Landlord at the Leased Premises or the offices, upon demand, for a period of at least 3 years after the year in which the sales occurred (however, if any audit is begun by Landlord or if there is a dispute regarding Tenant's Net Sales, Tenant's records shall be retained by Tenant until a final resolution of the audit or dispute). The receipt by Landlord of a statement of Net Sales or Percentage Rental shall not constitute an admission of its correctness. Tenant agrees to deliver to Landlord a statement of each month's sales on or before the 20th day of the following month, and by January 31 of each year of the Term an annual statement certified by a Certified Public Accountant or by a financial officer, owner or partner of Tenant, of the Net Sales made during the preceding year. If the Term expires or is terminated on a date other than December 31, then a like statement for the partial calendar year in which expiration or termination occurs shall be delivered within 30 days after expiration or termination. Landlord shall be entitled, at Landlord's expense, to have at any time and from time to time an audit of the Net Sales made during any period covered by the annual statement and account and to recalculate the rental payable for that period. If there is a deficiency in the payment of percentage or additional rental, the deficiency shall be immediately due and payable with interest at the Interest Rate, and the interest shall be additional rental, from the date when the payments should have been made. If there is an overpayment by Tenant, it shall be credited by Landlord against payments due. If Net Sales have been understated by more than 2% or Tenant fails to record, maintain or make available the required sales supporting documentation, Tenant shall be in default, and shall pay the cost of the audit and all other related costs and expenses. If Tenant is late furnishing Landlord any monthly sales statement, Landlord shall have the right, without notice, to conduct an audit at Tenant's sole cost. If Tenant does not furnish the sales documentation referred to above or otherwise impedes Landlord's audit of Tenant's Net Sales, Landlord shall be entitled, in addition to Landlord's other rights and remedies, to estimate Tenant's annual Net Sales as 125% of the Net Sales for the preceding year, and bill Tenant for any Percentage Rental which may be due based upon the estimated Net Sales.

e. For purposes of this Lease, the Interest Rate shall be the rate of 2% above the Prime Rate (as defined below), not to exceed the maximum rate of interest allowed by law in the state where the Shopping Center is located. "Prime Rate" wherever it appears in the Lease means the prime rate (or base rate) reported in the Money Rates column or section of The Wall Street Journal as being the base rate on corporate loans at large U.S. money center commercial banks (whether or not that rate has been charged by any bank). If the Wall Street Journal ceases

publication of the prime rate, "Prime Rate" shall mean the highest rate charged by Chase (or its successor) on short term unsecured loans to its most creditworthy large corporate borrowers.

4. Taxes: (a) Commencing on the Rental Commencement Date and on the first day of each month of the Term, Tenant shall pay, without deduction or set-off of any kind, its proportionate share of all real property taxes and assessments which may be levied or assessed against the retail portion of the Shopping Center during the Term by any lawful authority for each calendar year including, without limitation, all Impositions as defined below in this subpart (a) and the cost of any contest, review or negotiation of an assessment by Landlord, as described in (c) below (collectively "Property Taxes"). Property Taxes shall exclude taxes and assessments actually paid by anchors or outparcel occupants for land and buildings owned or leased by anchors and outparcels whether the anchors and outparcels are occupied or vacant and whether or not the real property taxes thereon are separately billed or assessed. Notwithstanding anything to the contrary contained in this Lease, Property Taxes shall include any form of tax or assessment, license fee, license tax, tax or excise on rent, or any other levy, charge, or similar imposition ("Impositions") imposed by any governmental authority or political subdivision having jurisdiction, or any school, agricultural, lighting, drainage, management, roadway, water, levee, utility or other improvement or special assessment district, on any interest of Landlord or Tenant in the Leased Premises, the Shopping Center or the underlying realty. The Impositions shall include but not be limited to: (aa) any partial or total substitute impositions for real property taxes; (bb) any impositions imposed upon owners of real estate (including any water and sewer tax assessment) rather than upon persons generally, as well as any tax which may become a lien on the land, buildings or other improvements in the Shopping Center, or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Leased Premises; (cc) any Impositions upon this Lease or any document to which Tenant is a party creating or transferring an interest or an estate in the Leased Premises, and (dd) any impositions for offsite property or facilities that provide an easement required to be maintained for the benefit of or that serves the Shopping Center.

(b) Tenant's proportionate share shall be the product which results by multiplying the Property Taxes (less any payment actually made by variety and specialty stores, and by anchors and outparcels as excluded in subpart (a)(i) above) by a fraction, the numerator of which shall be the number of square feet of floor area in the Leased Premises and the denominator of which shall be the total number of square feet of gross leasable floor area in the main mall building(s) (as determined by Landlord in its sole discretion; hereafter "Main Mall Building(s)") of the Shopping Center which are occupied or producing rent, including the Leased Premises, determined as of August 1 of each year (exclusive of the building areas utilized for non-retail exhibits or uses; recreational purposes, including, without limitation, ice rinks; space operated for a not-for-profit purpose, including, without limitation, museums; the building areas occupied by anchor buildings and outparcels whether the anchors and outparcels are occupied or vacant and whether or not the portion of Property Taxes thereon are separately billed or assessed; and variety and specialty stores [collectively, the "Excluded Areas"]). Tenant's share of Property Taxes shall not, however, be calculated on the basis of less than 80% of the gross leasable area of the Main Mall Building(s) of the Shopping Center determined as of August 1 of each year (minus the Excluded Areas).

(c) If Landlord contests, reviews or negotiates any tax or assessment upon the Shopping Center, Tenant agrees to pay its proportionate share of Landlord's expenses, whether third party or internal, including but not limited to legal, tax consultant and appraisal fees.

(d) Notwithstanding anything to the contrary contained in the Lease, an outparcel may at Landlord's sole discretion be considered part of the Shopping Center for purposes of the definition of Property Taxes and the calculation of Tenant's share of Property Taxes under Paragraph 4, provided that if the Landlord considers an outparcel to be part of the Shopping Center for such purposes Landlord shall include any payments toward Property Taxes actually made by the outparcel occupant before the calculation of Tenant's share of Property Taxes.

(e) From time to time, Landlord shall notify Tenant in writing of Landlord's estimate of Tenant's monthly installments due with respect to Property Taxes. Such monthly installments shall be paid on or before the 1st day of each calendar month, in advance. Upon confirmation of all Property Tax bills attributed to any calendar year during the Term, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of the Property Taxes for that year. If the total amount paid by Tenant for any calendar year during the Term

is less than the actual amount due from Tenant for that year, as shown on the statement, Tenant shall pay Landlord the deficiency within 10 days after demand by Landlord. If the total amount paid by Tenant for any calendar year exceeds the amount due from Tenant for that calendar year, Landlord shall credit the excess against payments due. Landlord's and Tenant's obligations under this Paragraph 4 shall survive the expiration of the Term.

(f) Notwithstanding anything to the contrary in this Paragraph 4 or elsewhere in this Lease, any excise, transaction, sales or privilege tax (except income, transfer, estate or inheritance tax) imposed upon Landlord on account of, attributed to, or measured by rental or other charges payable by Tenant shall be paid by Tenant to Landlord.

5. Joint Use Areas and Operating Expenses: (a) The "Joint Use Areas" shall consist of all parking areas, parking facilities, approaches, streets, sidewalks, malls, driveways, loading platforms, canopies, elevators, escalators, ramps, storm drainage facilities, exits, entrances, sprinkler mains, landscaped areas, comfort stations, light facilities, computer facilities, cable facilities, telecommunications facilities, washrooms, lounges and shelters, utility lines, roofs, roadways and other facilities available for joint use or benefit designated by Landlord, as they may from time to time exist and be available to the tenants in the Shopping Center, their employees, officers, agents, customers, licensees and invitees.

(b) Landlord shall, subject to events beyond its reasonable control, maintain or cause to be maintained the Joint Use Areas in good order and repair. The Joint Use Areas and other facilities in and about the Shopping Center shall at all times be subject to the control and management of Landlord and other parties that Landlord may designate. Landlord shall have the right at any time to redesignate, modify, alter, close, restrict, expand, reduce and change the Joint Use Areas.

(c) (i) Operating Expenses shall consist of all expenditures relating to operating, managing, equipping, policing, protecting, lighting, repairing, cleaning, replacing and maintaining the Joint Use Areas in the same or improved condition as when originally installed, including any rental and lease payments paid for machinery and equipment used in the maintenance of the Joint Use Areas and the personnel costs to implement those services, compliance with statutes, laws, codes, rules and regulations, even if applicable after the Effective Date; maintaining parking spaces for employees, customers and other parties; music; maintenance of the roof; removal of snow, ice, rubbish, dirt and debris; garbage collection service; planting, replanting and replacing flowers and landscaping; costs and expenses of utilities including, but not limited to, maintaining lighting facilities and storm drainage and detention systems (whether on or off the Shopping Center); sewage treatment plant; domestic water wells, pumps, and similar facilities and equipment; heating and cooling the enclosed portion of the Shopping Center; pest extermination; the alarm service charge if a supervised fire sprinkler alarm system is installed; premiums for liability, property, damage, fire and rental interruption insurance (if carried by Landlord); the cost of the personnel reasonably required to implement all of the foregoing, including the policing of the Joint Use Areas and the directing of traffic and parking of automobiles on the parking area; insurance aggregate allocations and losses borne by Landlord as a result of deductibles or self-insured retention limits carried by Landlord under an insurance policy or self insurance by Landlord; costs of adjusting an insured casualty; wages; unemployment, social security and personal property taxes; all other expenditures made for the use or benefit of the Joint Use Areas; direct or indirect costs of advertising, marketing and promotion of the Shopping Center, including the cost of marketing and customer service personnel; and maintenance of the sprinkler grid in tenant spaces of the Shopping Center.

(ii) Commencing on the Rental Commencement Date, Tenant shall pay an Operating Expenses Payment in the amount of \$ 37,957.92 (\$43.68 per square foot) per year for the calendar year 2018 payable in equal monthly installments, subject to the annual increases provided in this Paragraph 5(c)(ii). On the first day of each month of the Term, Tenant shall pay, without deduction or set-off of any kind, the Operating Expenses Payment. Tenant's Operating Expenses Payment shall increase on the 1<sup>st</sup> day of each subsequent calendar year by 5.00 %. As Tenant's obligation to pay the Operating Expenses Payment is predetermined and not subject to adjustment. Tenant shall have no express or implied right to examine, inspect or audit Landlord's records pertaining to the Operating Expenses Payment.

6. Anchors: An "anchor" for all purposes under this Lease is any operation, land, building, store or business, whether occupied or vacant and whether owned or leased, which leases or occupies 30,000 square feet or more of

space in the Shopping Center. A "variety or specialty store" is (aa) an occupant which leases or occupies between 10,000 and 29,999 square feet of space in the Shopping Center, or (bb) a restaurant occupant having an exterior entrance. An "outparcel" is any operation, land, building, store or business whether occupied or vacant and whether owned or leased, that is not an anchor or variety or specialty store and is separated by vehicular access or parking area from the Main Mall Building(s) or does not have an entrance accessible to the customers of the Shopping Center directly from the Main Mall Building(s).

7. Utilities: Tenant shall pay for all utilities used in the Leased Premises and pay for HVAC services as provided in Exhibit F attached hereto]. Tenant shall, if required by Landlord or applicable code and not included within the Landlord's Work, provide and pay for its own meters for heat, air conditioning, water, gas, electricity and all other utilities, and shall pay all water and sewage charges (and all other charges for utilities used in the Leased Premises), rentals and taxes imposed by governmental authority or otherwise.

If Landlord furnishes any utilities to the Leased Premises, Tenant shall pay, without deduction set-off of any kind, a charge to Landlord for any utility services furnished by Landlord to the Leased Premises (the "Environmental Charge"). The Environmental Charge shall be adjusted from time to time by Landlord.

8. Permitted Use: Tenant shall use the Leased Premises only for the operation of a Red Mango frozen dessert shop which shall offer for retail sale for consumption on and off the Leased Premises: (a) frozen yogurt served in a variety of flavors; (b) frozen yogurt served with toppings such as fruits, nuts and cereals; (c) frozen yogurt pies and similar desserts; (d) frozen yogurt served with shaved ice; (e) beverages limited to bottled water and Red Mango branded yogurt beverages; (f) Red Mango product based smoothies; (g) hot and cold soft beverages; and (h) other Red Mango branded items as may be offered in Tenant's other stores provided such items do not conflict with any restriction existing in the Shopping Center at such time the product is offered and for no other use or purpose whatsoever. Tenant does not have exclusive rights to sell any particular merchandise or provide any particular services in the Shopping Center.

Tenant covenants to continuously and uninterruptedly operate within the entire Leased Premises the business it is permitted to operate as stated above. Tenant agrees to conduct its business at all times in a first-class manner consistent with reputable business standards and practices, and to maintain within the Leased Premises a stock of merchandise and trade fixtures adequate to service and supply the usual demands of its customers. Tenant shall keep the Leased Premises in a neat, safe, clean and orderly condition. Tenant further agrees to keep open the Leased Premises and operate its business at the hours and on the days and evenings of the week established from time to time as the normal operating hours of the Shopping Center.

9. Leased Premises As-Is: Subject to Landlord's repair and maintenance obligations hereunder, Tenant's taking possession of the Leased Premises shall be conclusive evidence of Tenant's acceptance of the Leased Premises in good order and satisfactory condition and "as-is." Tenant agrees that no representations about the condition of the Leased Premises, nor promises to decorate, alter, repair or improve the Leased Premises, have been made by Landlord or its agents to Tenant. Tenant also agrees that no representations have been made to Tenant that any other tenants will lease space in the Shopping Center nor have any promises been made that Tenant has the exclusive right to sell any merchandise, goods or services. Tenant hereby waives any implied warranties, including but not limited to fitness, suitability and habitability.

10. Tenant's Work: All work by Tenant shall be made under the supervision of a competent architect or competent licensed structural engineer (if required) and (if Landlord's consent is required) shall be in accordance with plans and specifications approved in writing by Landlord before the start of the work. Landlord's approval of Tenant's plans and specifications shall not create a responsibility or liability of Landlord for their accuracy, sufficiency or compliance with laws or rules and regulations. The work shall be in accordance with necessary governmental approvals and permits. Tenant shall obtain approvals and permits at its sole expense. The work shall be done in a good and workmanlike manner and diligently prosecuted to completion. **Tenant has no remodel obligations as of the date of this Lease.**

All construction, improvements, additions, alterations and fixtures except for Tenant's point-of-sale equipment, security systems, free-standing display racks, other personal property and trade fixtures, and goods held for sale to

the public (the "Leasehold Improvements") will at all times be the sole property of Landlord and Tenant will have no ownership interest in the Leasehold Improvements. It is the intention of Landlord and Tenant that the Leasehold Improvements will be qualified long term real property in accordance with Section 110 (a) of the Internal Revenue Code and the regulations thereunder. Each party shall prepare its federal, state and local income tax forms and schedules, and calculate taxable income, in a manner consistent with Landlord's ownership of such Leasehold Improvements for all taxable years, and shall furnish the information described in Treasury Regulations Section 1.110-1(c) in the time and manner specified therein.

Tenant shall not permit a lien or claim to attach to the Leased Premises and shall promptly cause such lien or claim to be released. If Tenant contests the lien or claim, Tenant shall indemnify Landlord and, if requested, deposit with Landlord a cash or surety bond in a form and with a company satisfactory to Landlord in an amount equal to twice the amount of the contested lien or claim. If Tenant shall fail to cause a lien to be discharged or bonded, within 10 days after being notified of the filing of the lien, in addition to any other right or remedy, Landlord may discharge the lien by paying the amount claimed to be due.

11. Repairs and Maintenance: (a) Landlord shall be responsible for all structural repairs of the Leased Premises **as well as Landlord's responsibilities under Exhibit F**. Landlord shall not be responsible for damage or personal injury caused by any defects or other conditions, or the consequences thereof, except in the case of Landlord's willful misconduct **or gross negligence**. Landlord shall not be liable to Tenant for any damage to merchandise, trade fixtures or personal property of Tenant in the Leased Premises, including without limitation damage by water leakage, seepage, water discharge from a sprinkler system or water damage caused by leakage from other occupants.

(b) Tenant shall be liable for the repairs, replacements and maintenance of the Leased Premises, except those for which Landlord is responsible under this Paragraph 11 **and Exhibit F**. Tenant shall keep the Leased Premises in good order and repair, clean, sanitary and safe and shall notify Landlord, in writing, prior to beginning any repair. The notice shall specify the repair work to be performed. Tenant's repairs, replacements and maintenance obligations shall include, but not be limited to, its heating and cooling equipment **(except as set forth as Landlord's responsibility under Exhibit F)**; other equipment; fixtures; improvements; floor covering; the exterior and interior portions of all doors, door locks, security gates, and windows; plumbing and sewage facilities which are not Landlord's obligation; walls; ceilings; and plate glass. Tenant shall be solely responsible for maintenance and repair costs related to the Leased Premises. Tenant agrees to keep the interior of the Leased Premises in a clean and sightly appearance. If Tenant refuses or neglects to make repairs or maintain the Leased Premises, in a manner reasonably satisfactory to Landlord, Landlord shall have the right, upon giving Tenant reasonable written notice, to make the repairs or perform the maintenance on behalf of Tenant. Tenant shall reimburse Landlord promptly upon receipt of a bill. Landlord has no obligation to do work which Landlord is not expressly required to perform under this Lease or which, under this Lease, Tenant is required to perform. The performance of that work by Landlord shall not constitute a waiver of Tenant's default.

(c) Tenant agrees that Landlord, its agents, employees, servants or any person authorized by Landlord, may enter the Leased Premises to: (a) inspect its condition; (b) make repairs, additions, or improvements to any part of the Shopping Center, including the Leased Premises; (c) exhibit the Leased Premises to prospective purchasers of the Shopping Center; (d) place notices during the last 60 days of the Term in the Leased Premises at such places as may be determined by Landlord; (e) perform construction on or near the Leased Premises; and (e) post notices of non-responsibility.

## 12. Insurance:

(a) Landlord agrees to carry, or cause to be carried, the following insurance coverages and types:

- (i) Workers' Compensation Insurance in statutory amounts;
- (ii) Employer's Liability Insurance in the amount of \$1,000,000 per person for each accident, or disease;

(iii) Commercial General Liability Insurance on the common areas providing coverage of not less than \$1,000,000 per occurrence, with a \$2,000,000 aggregate.

(iv) Commercial Property Insurance including special form perils endorsement insuring Landlord's property in the Shopping Center for the full replacement value. This insurance will exclude Tenant's Work and Tenant's merchandise, signs, goods, trade fixtures, furnishings, equipment, furniture and other personal property).

(v) Landlord will have the right to carry or cause to be carried additional types of insurance in whatever limits Landlord chooses, including coverage under blanket insurance policies which may be allocated by Landlord among the properties owned or managed by Landlord which in Landlord's opinion Landlord deems appropriate.

(b) Tenant agrees to carry the following insurance coverages and types:

(i) Workers' Compensation Insurance in statutory amounts.

(ii) Employer's Liability Insurance in the amount of \$1,000,000 per person for each accident, or disease.

(iii) Commercial General Liability Insurance including products and completed operations coverages of not less than \$1,000,000 per occurrence, with a \$2,000,000 per location aggregate (for Shopping Centers in the states of New York, Texas, and California these limits shall be not less than \$3,000,000 per occurrence with a \$5,000,000 per location aggregate). The fire legal liability limit shall be not less than \$1,000,000. This policy shall contain a Contractual Liability Endorsement. This policy shall also include an Additional Insured Endorsement containing the names of the Additional Insureds identified below. The policy must have a Waiver of Subrogation endorsement in favor of all Additional Insureds. Any deductible/self-insured retention in excess of \$5,000 per occurrence requires Landlord's written consent.

(iv) Commercial Property Insurance including special form perils endorsement-insuring Tenant's property, including plate glass, in the Shopping Center for the full replacement value, without deduction for depreciation. This policy shall have an Agreed Value Endorsement. This insurance must include all of Tenant's Work, improvements and betterments, Tenant's inventory, merchandise, signs, goods, trade fixtures, furnishings, equipment, furniture, wall coverings, floor coverings, and other personal property). Tenant shall insure for loss from flood, including coverage for water damage from all causes including but not limited to sprinkler damage, sewer discharge or backup, water line breakage, and overflow from other Tenant's spaces or from the Joint Use Areas. Where available, Tenant shall insure for earthquake. Landlord shall be named as a loss payee with respect to the coverage for Tenant's betterments and improvements. The policy must have a Waiver of Subrogation endorsement in favor of all Additional Insureds. The deductible/self-insured retention shall not exceed \$5,000 per occurrence without Landlord's written consent.

(v) Loss of Business Income Insurance, including Extra Expense and Contingent Business income coverage. The insurance limits for this insurance shall be based upon a minimum of 12 months business income with a 60-day extended period of indemnity endorsement.

(vi) Boiler and Machinery insurance, including mechanical breakdown, covering rooftop HVAC units and any separate heating units or boilers which serve only the Leased Premises. Such coverage shall be for the full replacement value of the units without deduction for depreciation.

(vii) If in Landlord's reasonable judgment there is a need for additional or different types of insurance, Tenant shall obtain upon Landlord's request the insurance at Tenant's sole expense.

(viii) Automobile liability coverage, including owned, non-owned and hired automobiles, with limits of

not less than \$1,000,000 combined single limit for bodily injury and property damage.

(c) All policies of insurance (including policies of Tenant's contractors and subcontractors) shall contain a Waiver of Subrogation Endorsement in favor of all Additional Insureds. If Tenant is permitted to self-insure for any of the insurance coverages required to be provided, Tenant hereby waives against Landlord, its parents, partners, joint venturers, subsidiaries and affiliates, against the property manager, and against the Additional Insureds if not listed below, all claims, including any and all rights of subrogation which may exist, for all losses and damages no matter how caused, which were or could have been insured for under any policy of insurance required to be obtained by Tenant. This waiver of liability and waiver of subrogation expressly include any cause of loss due to the sole or concurrent negligence of any Additional Insured. If Tenant shall, for any reason, fail to obtain from its insurance carrier(s) the required Waiver of Subrogation Endorsement, the Tenant shall fully and completely defend and indemnify the Landlord and all Additional Insureds from any claims and demands, including lawsuits, brought against Landlord and/or the Additional Insureds by any insurance company which insured Tenant for a paid loss and which seeks to recover amounts paid under Tenant's policy.

(d) Tenant shall, upon request of Landlord, provide a Certificate of Insurance to Landlord evidencing all of the required coverages and Endorsements. The Certificate of Insurance must remain current (or be replaced with a current Certificate) at all times during the period of Tenant's tenancy. All policies of insurance must be written by insurance carriers licensed to do business in the state in which the Shopping Center is located and have an A.M. Best's rating of not less than A:VII. All Tenant's liability policies shall be endorsed to be primary and non-contributory to policies of the Landlord and the Additional Insureds, and shall contain either a cross-liability endorsement or separation of insureds provision which permits the limits of liability under Tenant's policies to apply separately to each Additional Insured. Tenant shall promptly give the certificate holder written notice in advance of any cancellation, lapse, reduction in amount of coverage or any other adverse change to the policy or insurer.

(e) The Additional Insureds who shall be named on Tenant's policies shall include the Landlord, GGP Inc., General Growth Services, Inc., GGPLP REIT Services, LLC, and such other entities provided by Shopping Center Management, any owner or occupant in or adjoining the Shopping Center (including anchors), any joint venturer or partner of Landlord, and any mortgagee or beneficiary of any part of the Shopping Center.

13. **Indemnification:** Excluding the willful misconduct **or gross negligence** of the indemnitee, Tenant shall indemnify, defend and save harmless Landlord, its parents, partners, subsidiaries, affiliates and any anchor, owner or operator which is or may be in the Shopping Center, their agents, officers and employees from and against liability, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action arising out of or connected with Tenant's use, occupancy, management or control of the Leased Premises or Tenant's operations or activities in the Shopping Center (whether or not occurring or resulting in damage or injury within the Leased Premises or the common areas). This obligation to indemnify shall include reasonable legal and investigation costs and all other reasonable costs, expense and liabilities from the 1st notice that any claim or demand is or may be made. Tenant's obligation shall become effective beginning on the date Tenant is delivered the Leased Premises. Tenant's indemnification obligation shall survive the expiration of the Term or the earlier termination of this Lease.



14. Relocation and Early Termination:

(a) Landlord shall have the right at any time during the Term of this Lease, to relocate Tenant to another space in the Shopping Center ("Substitution Space"). Tenant shall, within 30 days after receipt of Landlord's notice of relocation, notify Landlord that it either accepts or rejects the Substitution Space. If Tenant rejects the Substitution Space, then Landlord shall have the right to terminate this Lease upon 90 days' written notice to Tenant given within 30 days after receipt of Tenant's rejection notice and Tenant shall vacate the Leased Premises no later than the date contained in Landlord's termination notice. If Tenant accepts the Substitution Space, Landlord shall deliver the Substitution Space to Tenant in the same condition that the Leased Premises were required to be in upon delivery of possession to Tenant.

~~(b) Landlord shall have the right at any time during the Term of this Lease, to terminate this Lease upon not less than 90 days' prior written notice to Tenant. Tenant shall vacate the Leased Premises and this Lease shall terminate at the close of business on the date contained in Landlord's termination notice. Notwithstanding the foregoing, such date of termination shall not occur during November or December.~~

15. Laws and Ordinances:

(a) Tenant shall comply with all laws, ordinances, codes, orders and regulations affecting the construction, use, occupancy, alteration, cleanliness, safety and operation of the Leased Premises, which are in force now or later. Tenant shall comply with the regulations, requirements and recommendations of any insurance underwriter, inspection bureau or similar agency. Tenant shall notify Landlord if Tenant has received notice of, or has knowledge of any condition or occurrence that might result in liability to Landlord. Tenant shall give Landlord, upon Landlord's request, information regarding the environmental condition of the Leased Premises so Landlord can determine if Landlord must comply with any rule, regulation, order, act, law or statute pertaining to the environmental condition of the Leased Premises or the Shopping Center, and for Landlord to accurately complete a form or otherwise provide information required under any rule, regulation, order, act, law or statute. Tenant shall permit Landlord to comply with those recommendations and requirements. In addition, Tenant agrees to comply, to the extent that the same may be applicable to the Leased Premises and as same may be amended from time to time, with the standards and requirements of the Williams-Steiger Act (PL91-596), known as the "Occupational Safety and Health Act of 1970," notwithstanding the fact that Tenant may otherwise be exempted from the provisions of said Act, and the Americans with Disabilities Act of 1990.

(b) Tenant shall not: (i) permit an immoral practice in the Leased Premises; (ii) use or allow the Leased Premises to be used or occupied in a manner that might invalidate or increase the rate of or make inoperative an insurance policy carried on the Leased Premises or on property, buildings or improvements in the Shopping Center; (iii) keep, use or permit in the Leased Premises inflammable fluids or explosives without the prior written permission of Landlord, or engage in hazardous activities; (iv) use the Leased Premises for a purpose which might create a nuisance or injure the reputation of the Leased Premises or the Shopping Center; (v) deface or injure the Leased Premises or any portion of the Shopping Center; (vi) overload the floors; (vii) commit or suffer waste; (viii) install electrical equipment that overloads lines; or (ix) conduct any sampling, testing, or drilling to locate any Hazardous Material without Landlord's prior written approval. Tenant shall, upon demand, reimburse Landlord for extra premiums caused by Tenant's use or occupancy of the Leased Premises, whether or not Landlord has consented to the use and occupancy. A schedule issued by the organization making the insurance rates on the Leased Premises, showing the components of the rates, shall be conclusive evidence of the items and charges which make up the hazard and other insurance rates on the Leased Premises. Tenant shall, at Tenant's expense, make from time to time whatever changes are necessary to comply with the requirements of the insurance inspectors, underwriters and governmental authorities in connection with electrical and fire prevention systems and equipment.

(c) Tenant shall not have a claim against Landlord, and Landlord shall not be liable for damages, demands, expenses, fees, fines, penalties, suits, proceedings, claims, actions and causes of action arising out of or in any way connected with Tenant's use or occupancy of the Leased Premises, if the use or occupancy is prohibited or substantially impaired by any law, ordinance, regulation or by legal, governmental or other public authority.

(d) Tenant shall not cause or permit any Hazardous Material (defined below) to be brought upon, transported through, stored, kept, used, discharged or disposed in or about the Leased Premises or the Shopping Center (collectively "Property") by Tenant, its agents, employees or contractors. Tenant shall notify Landlord immediately of the presence of or disposal of Hazardous Material on or near the Leased Premises, and of any notice by a party alleging the presence of Hazardous Material on or near the Leased Premises. However, Hazardous Materials brought upon, transported, used, kept or stored in or about the Property which is necessary for Tenant to operate its business for the use permitted under this Lease shall be brought upon, transported, used, kept and stored only in the quantities necessary for the usual and customary operation of Tenant's business and in a manner that complies with: (i) all laws, rules, regulations, ordinances, codes or any other governmental restriction or requirement of all federal, state and local governmental authorities having jurisdiction and regulating the Hazardous Material; (ii) permits (which Tenant shall obtain prior to bringing the Hazardous Material in, on or about the Property) issued for the Hazardous Material; and (iii) all producers' and manufacturers' instructions and recommendations, to the extent they are stricter than laws, rules, regulations, ordinances, codes or permits. If Tenant, its agents, employees or contractors, in any way breaches the obligations in the preceding sentence; or if the presence of Hazardous Material on the Property caused or permitted by Tenant results in the release or threatened release of Hazardous Material on, from or under the Property; or if the presence on, from or under the Property of Hazardous Material otherwise arises out of the operation of Tenant's business then, without limitation of any other rights or remedies available to Landlord under this Lease or at law or in equity, Tenant shall indemnify, defend, protect and hold harmless Landlord (and Landlord's parents, subsidiaries, affiliates, employees, partners, agents, mortgagees or successors to Landlord's interest in the Leased Premises) (collectively "Indemnity") from any and all claims, sums paid in settlement of claims, judgments, damages, clean-up costs, penalties, fines, costs, liabilities, losses or expenses (including, without limitation, attorneys', consultants' and experts' fees and any fees by Landlord to enforce the Indemnity) which arise during or after the Term as a result of Tenant's breach of the obligations or the release or contamination of the Property, including, without limitation: diminution in value of the Property; damages for the loss of, or the restriction on the use of, rentable or usable space or any amenity of the Property; damages arising from any adverse impact on the sale or lease of the Property; and damage and diminution in value to the Property or other properties, whether owned by Landlord or by 3rd parties. This Indemnity includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on, under or originating from the Property. Without limiting the foregoing, if the presence of Hazardous Material on the Property caused or permitted by Tenant results in the contamination, release or threatened release of Hazardous Material on, from or under the Property or other properties, Tenant shall promptly take all actions at its sole cost and expense which are necessary to return the Property and other properties to the condition existing prior to the introduction of the Hazardous Material; provided that Landlord's written approval of the actions shall be obtained first (which approval shall not be unreasonably withheld) and so long as such actions do not have or would not potentially have any material, adverse long-term or short-term effect on Landlord or on the Property or other properties. This Indemnity shall survive the Expiration Date or earlier termination of this Lease and shall survive any transfer of Landlord's interest in the Property. "Hazardous Material" means any hazardous, radioactive or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes (whether or not mixed, commingled or otherwise combined with other substances, materials or wastes) listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) a petroleum product, crude oil or any fraction thereof, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903) or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601), as all of the foregoing may be amended from time to time.

16. Signage: Tenant shall not put on the glass and supports of the windows, doors or exterior walls of the Leased Premises any signs, advertising placards, names, insignias, trademarks or descriptive material. No signs or other items shall be placed within the Leased Premises if they materially obstruct a view of the Leased Premises. Tenant shall not place vents, structures, improvements or material obstructions on the exterior of the Leased Premises

without Landlord's written consent. Landlord shall have the right, upon notice to Tenant and without liability, to restore the Leased Premises and remove property from the Leased Premises unless the size, type, color, location, copy, nature and display qualities of the property were approved by Landlord in writing if such approval was required. The cost of the restoration and removal of property shall be paid for by Tenant promptly upon receipt of a bill. Tenant shall not place a sign on the roof of the Leased Premises notwithstanding anything in this Lease to the contrary.

**17. Assignment, Subletting and Ownership:**

Tenant shall not transfer, assign, sublet, enter into license or concession agreements or hypothecate this Lease or Tenant's interest in and to the Leased Premises in whole or in part, or otherwise permit occupancy of all or any part of the Leased Premises by anyone with, through or under it, without first procuring the written consent of Landlord, which may be granted or withheld in the sole and absolute discretion of Landlord. In any event, Landlord may upon receipt of a request to transfer, instead of consenting to or denying the proposed transfer, terminate Tenant's obligations under the Lease and regain possession of the Leased Premises. If Landlord exercises its termination right, then this Lease shall terminate effective 60 days following Landlord's receipt of Tenant's written request for consent.

**18. Notices:** Notices and demands shall be given in writing by personal delivery or sent by certified mail or via a nationally recognized courier service addressed to Landlord and to Tenant at the addresses specified below or at the addresses which were last specified by notice by Landlord or Tenant. Notices or demands shall be deemed to have been given, made or communicated on the date they were received or refused by the intended party as evidenced on the return receipt or delivery report.

**If to Landlord:**

**Notice:**

**Landlord's Notice Address**  
**NATICK MALL, LLC**  
**c/o Natick Mall**  
**350 N. Orleans St.**  
**Suite 300**  
**Chicago, IL 60654-1607**  
**Attn: Law/Lease Administration**  
**Department**

**Landlord's Payment Address:**  
**NATICK MALL, LLC**  
**NATICK MALL, SDS-12-3111, PO BOX**  
**86**  
**MINNEAPOLIS, Minnesota 55486-3111**

**With a copy to:**  
**Natick Mall**  
**1245 WORCESTER STREET, SUITE 1218**  
**NATICK, Massachusetts 01760-1553**  
**Attn: General Manager**

**If to Tenant:**

**Notice:**  
**OSHIBI GROUP LLC**  
**62 Rockland Street**  
**North Easton, MA 02356**

**Billing:**  
**OSHIBI GROUP LLC**  
**62 Rockland Street**  
**North Easton, MA 02356**

**For billing, invoices and copies of notices of monetary default:**

**OSHIBI GROUP LLC**  
**625 Rockland Street**  
**North Easton, MA 02356**

19. Default: (a) The following shall be a default by Tenant:

- (i) The failure to pay when due an installment of rental, or any other payment required to be made in whole or in part, if the failure shall continue for 10 days after the date when due; and/or
- (ii) The abandonment or vacation of the Leased Premises or any part of it; and/or
- (iii) The failure to observe or perform any other provision of this Lease, if the failure continues for 10 days after written notice to Tenant; if the default cannot reasonably be cured within 10 days, Tenant shall not be in default if Tenant begins to cure the default within 10 days and diligently cures the default; and/or
- (iv) The making by Tenant of a general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless a petition filed against Tenant is dismissed within 90 days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease if possession is not restored to Tenant within 30 days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Leased Premises, or of Tenant's interest in this Lease, if the seizure is not discharged within 30 days; and/or
- (v) The failure more than twice within a 12 month period to make any payment of rental, provided Landlord has given Tenant the required written notices in each case. The 3rd failure shall be a non-curable default.

(b) In addition to any other remedies available to Landlord at law or in equity for default, Landlord shall have the immediate option to terminate this Lease and the rights of Tenant by written notice to Tenant.

(c) Landlord shall also have the right if Tenant defaults under the Lease to reenter the Leased Premises pursuant to legal process and remove all persons and property from the Leased Premises. The property may be stored at Tenant's cost. Landlord shall not be liable to Tenant for loss or damage resulting from an entry by Landlord. Tenant shall pay as additional rental, upon demand, expenses incurred or paid by Landlord because of Landlord's entry. If either party institutes legal suit or action for enforcement of an obligation the venue shall be the jurisdiction where the Shopping Center is located. To the extent permitted by applicable law, Tenant waives notice of reentry (or institution of legal proceedings), including the right to receive notice pursuant to any statute or judicial decision of law. Notwithstanding anything to the contrary contained in this paragraph, any written notice, other than as specifically set forth in this paragraph, required by a statute or law enacted now or later is waived by Tenant, to the extent permitted under that statute or law.

20. Damage and Destruction: If the Leased Premises are damaged, destroyed or rendered partially or totally untenable by fire or other casualty, this Lease shall immediately terminate as of the date of the casualty.

21. Subordination:

(a) Tenant's rights shall be subordinate to the interest of any ground lessor and to the lien of any mortgage or deed of trust in force or later placed against the Shopping Center, upon any building placed later upon the Shopping Center and to all advances made upon the security thereof. The ground lessor or the mortgagee or beneficiary named in the mortgage or trust deed shall agree that Tenant's peaceable possession of the Leased Premises shall not be disturbed if Tenant is not in default under this Lease. Any mortgagee or beneficiary of Landlord may, at its option, subordinate its mortgage or trust deed to this Lease. This Paragraph 19(a) is self-operative, and no further documentation of Tenant's subordination and attornment is required, however Tenant shall execute any subordination agreement requested by Landlord, any mortgagor or beneficiary of Landlord upon written request.

Within 30 days of either party's written request, the other party shall without charge execute, acknowledge and deliver to the requesting party an instrument required under this Lease or an instrument prepared by the requesting party containing the rent commencement date and Expiration Date of this Lease, and if true, that (a) this Lease is a true copy of the Lease between the parties, (b) there are no amendments (or stating the amendments), (c) the Lease is in full force and effect and that, to the best of such party's knowledge, there are no offsets, defenses or counterclaims of rental or in the performance of the other covenants and conditions to be performed by the other party, and (d) no default has been declared by either party and that such party has no knowledge of any facts or circumstances which it believes would constitute a default by the other party.

(b) If any proceedings are brought for foreclosure, or if the power of sale under any mortgage, deed of trust or deed to secure debt made by Landlord covering the Leased Premises is exercised, Tenant shall attorn to the purchaser upon the foreclosure or sale and recognize the purchaser as the Landlord under this Lease.

22. Rules and Regulations: Tenant shall require its employees, agents and contractors to comply with the reasonable rules and regulations made by Landlord from time to time regarding the operation of the Shopping Center or the Leased Premises.

23. Security Deposit: (a) Tenant has deposited with Landlord the sum of \$16,736.00 which shall be held by Landlord, without liability for interest, as security for the performance by Tenant of Tenant's obligations. The deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without Landlord's written consent, and any such act by Tenant shall be without force and effect and not binding on Landlord. If Tenant performs the covenants and agreements in this Lease, the deposit, or the portion of the deposit not previously applied, shall be returned to Tenant after the expiration of the Term, if Tenant has surrendered possession at the expiration of the Term, and has left the Leased Premises in the condition required under this Lease.

(b) Landlord may commingle the deposit with its other funds. If the rental or any other sum is overdue, if Landlord makes payments for Tenant, or if Tenant fails to perform any of its obligations, Landlord may (without affecting any remedy Landlord may have), apply this deposit, or so much of it to be necessary, to compensate Landlord for rental, additional rental and any loss or damage sustained by Landlord. Tenant shall, upon demand, restore the deposit to the original amount. If a bankruptcy or other creditor-debtor proceedings against Tenant occurs, the deposit and all other securities shall be applied first to the payment of rental and other charges due Landlord for periods prior to the filing of the proceedings. Landlord may deliver the deposit to the transferee of Landlord's interest in the Leased Premises. If that interest is transferred, upon notice to Tenant, Landlord shall be discharged from further liability, and this provision shall also apply to subsequent transferees. Tenant hereby grants Landlord a security interest in the deposit, and to execute the necessary Uniform Commercial Code filing to perfect the security interest granted Landlord; this provision shall survive the expiration or termination of the Lease.

(c) Neither Landlord's right to possession of the Leased Premises for non-payment of rental or for any other reason, nor any other right of Landlord, shall be affected because Landlord holds the deposit

#### 24. Miscellaneous:

(a) Enforceability: If any provision of this Lease or any paragraph, sentence, clause, phrase or word is judicially or administratively held invalid or unenforceable, that shall not affect, modify or impair any other paragraph, sentence, clause, phrase or word. The parties acknowledge that certain charges, fees and other payments are deemed "additional rental" in order to enforce Landlord's remedies, and shall not be construed to be "rent" if rent controls are imposed.

(b) Landlord's Liability: Landlord's liability under this Lease or arising out of the relationship of the parties shall be limited to Landlord's interest in the Shopping Center. Judgments rendered against Landlord shall be satisfied solely out of the proceeds of the sale of Landlord's interest in the Shopping Center which have been received by Landlord. No personal judgment shall apply against Landlord upon extinguishment of its rights in the Shopping Center. A personal judgment shall not create a right of execution or levy against Landlord's assets. The provisions of this Paragraph 24(b) shall inure to Landlord's successors and assigns. These provisions are not designed to relieve Landlord from the performance of its obligations under this Lease, but to limit the personal liability of Landlord in

case of a judgment against Landlord. Tenant's right to obtain injunctive relief or specific performance or to have any other right or remedy which may be awarded Tenant by law or under this Lease shall not be limited however. No personal liability is assumed by nor shall at any time be enforceable against Landlord.

(c) Corporate Tenant: If Tenant is or will be a corporation or partnership of any kind, Tenant covenants and represents that Tenant is a duly incorporated or duly qualified (if foreign) corporation or partnership, as the case may be (including without limitation a limited liability corporation and a limited liability partnership) and is authorized to do business in the State where the Shopping Center is located (evidence shall be supplied Landlord upon request). Tenant also covenants and represents that the person, partner or member executing this Lease on behalf of Tenant is (if a corporation) an officer of Tenant, and is (if a corporation or partnership of any kind) authorized to sign and execute this Lease.

(d) Entire Agreement: This Lease is the only agreement between the parties for the Leased Premises. An amendment, modification or supplement to this Lease shall not be effective unless it is in writing and executed by the parties.

(e) Ownership: If the ownership of the Shopping Center is in a Real Estate Investment Trust, then Landlord and Tenant agree that Monthly Rental and all additional rental paid to Landlord under this Lease (collectively referred to in this Section as "Rent") shall qualify as "rents from real property" within the meaning of Section 856(d) of the Internal Revenue Code of 1986, as amended (the "Code") and the U.S. Department of Treasury Regulations (the "Regulations"). Should the Code or the Regulations, or interpretations of them by the Internal Revenue Service contained in Revenue Rulings, be changed so that any Rent no longer qualifies as "rent from real property" for the purposes of Section 856(d) of the Code and the Regulations, other than by reason of the application of Section 856(d)(2)(B) or 856(d)(5) of the Code or the Regulations, then Rent shall be adjusted so that it will qualify (provided, however, that any adjustments required pursuant to this Paragraph shall be made so as to produce the equivalent (in economic terms) Rent as payable prior to the adjustment).

(f) Force Majeure: If either party is delayed, hindered or prevented from the performance of an obligation because of strikes, lockouts, labor troubles, the inability to procure materials, power failure, restrictive governmental laws or regulations, riots, insurrection, war or another reason not the fault of the party delayed, but not including financial inability, the performance shall be excused for the period of delay. The period for the performance shall also be extended for a period equal to the period of delay. Tenant shall not be excused from the prompt payment of rental, additional rental or other payments.

(g) Quiet Enjoyment: Landlord has the right, power and authority to enter into this Lease. Tenant, or any permitted assignee or sublessee of Tenant, upon the payment of the rental and performance of Tenant's other covenants, shall and may peaceably and quietly have, hold and enjoy the Leased Premises during the Term. This covenant shall be construed as a covenant running with the land. It shall not be construed as a personal covenant of Landlord.

(h) Successors: All covenants, promises, conditions, representations and agreements shall be binding upon, apply and inure to Landlord and Tenant and their heirs, executors, administrators, successors and assigns. The provisions of Paragraph 15 hereof shall not be affected by this Paragraph 21(h).

(i) Attorneys' Fees: If, during the Term or afterwards, either party institutes an action, proceeding or counterclaim against the other relating to this Lease, or a default, the unsuccessful party shall reimburse the successful party for the total amount of court costs, expenses and reasonable attorneys' fees actually incurred, the parties waiving any statute, rule of law or public policy to the contrary. The parties agree to confirm this agreement in writing at the start of the action, proceeding or counterclaim. The giving of a notice of default shall constitute part of an action or proceeding under this Lease, entitling the party giving the notice to reimbursement of its reasonable expenses of attorneys' fees and disbursements, even if an action or proceeding is not commenced in a court of law and whether or not the default is cured. This Paragraph shall survive the expiration or termination of this Lease.

25. Special Provisions: (a) The definition of "Hazardous Material" contained in ARTICLE 15(d) also includes the Massachusetts Hazardous Waste Management Act, M.G.L. Chapter 21C, as amended, and the Massachusetts Oil and Hazardous Material Release and Response Act, M.G.L. Chapter 21E, as amended, and regulations adopted thereunder.

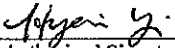
The exhibits are incorporated by reference into this Lease.

If Tenant is a CORPORATION, the authorized signatory shall sign on behalf of the corporation and indicate the capacity in which they are signing. The Lease must be executed by the president or vice president and attested by the secretary or assistant secretary, unless the bylaws or a resolution of the board of directors provides otherwise. In that case, the bylaws or a certified copy of the resolution shall be attached to this Lease. The appropriate corporate seal must be affixed to the Lease.

**TENANT:**

OSHIBI GROUP, LLC, a Massachusetts limited liability company

dba "Red Mango"

By:   
Authorized Signatory

**LANDLORD:**

NATICK MALL, LLC, a Delaware limited liability company

By:   
Authorized Signatory



## HVAC CHARGE SCHEDULE

## EXHIBIT F

Natick Mall  
NATICK, Massachusetts

## ALL TENANTS

### I. GENERAL

The charges described in this EXHIBIT F shall be deemed a portion of the Environmental Charges for purposes of ARTICLE 16 and shall be deemed additional rental under this Lease. The methods of computation and the factors and assumptions contained herein are subject to periodic adjustment and modification by Landlord in order to more accurately reflect changing operating conditions including, without limitation, changes in applicable codes, statutes, laws, ordinances and regulations.

As part of Tenant's plan submittal, Tenant shall provide to Landlord a complete description of all electrical, natural gas, water and sewer devices and equipment serving the Leased Premises. Such description shall include detailed specifications for such devices and equipment including, without limitation, the quantities and capacities.

### II. ENVIRONMENTAL CHARGE FOR HEATING, VENTILATION, AIR CONDITIONING (the "HVAC Environmental Charge")

#### A. CHARGE FOR LANDLORD PROVIDED HVAC EQUIPMENT, MAINTENANCE AND NON-ENERGY OPERATION EXPENSES

Tenant shall be obligated to pay a HVAC Equipment, Maintenance and Non-Energy Operation Charge in the amount of \$4.35 per square foot of the Leased Premises, subject to an increase in the amount of 4% each January 1 following the Opening Date. This charge is for the cost and expense of the Landlord provided HVAC system to the Leased Premises, together with its repairs and maintenance, materials and supplies, wages and other compensation (including supervisory personnel), Workers' Compensation, payroll taxes and compressor or boiler insurance and all other non-energy costs or expenses. As Tenant's payments due hereunder are predetermined and not subject to adjustment except as expressly provided herein, Tenant shall have no express or implied right to examine, inspect or audit Landlord's records pertaining to the HVAC Equipment, Maintenance and Non-Energy Operation Expenses.

#### B. LANDLORD PROVIDED HVAC SYSTEM ENERGY EXPENSE

1. Tenant shall also pay its share of the energy expenses necessary to operate the Landlord provided HVAC System. Landlord's engineer shall calculate Tenant's share of the HVAC System Energy Expense based on the anticipated cooling load required for the Leased Premises based upon Tenant's Plans. The calculation may be further adjusted to the extent Tenant varies the temperature of the Leased Premises from the standard Shopping Center temperature set point or otherwise modifies the Leased Premises such that the cooling load might be affected.
2. Tenant's share of HVAC System Energy Expense shall be computed by multiplying the applicable energy expenses and costs incurred by Landlord in connection with operating the Landlord provided HVAC System (i.e., electricity, natural gas, water, steam and sewer (as the case may be)), by a fraction, the numerator of which shall be Tenant's relative cooling load factor, and the denominator of which shall be the total of all relative cooling load factors for non-Anchor spaces in the Shopping Center which are leased, open and operating, and which utilize the corresponding Landlord provided HVAC system.



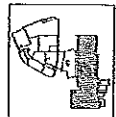
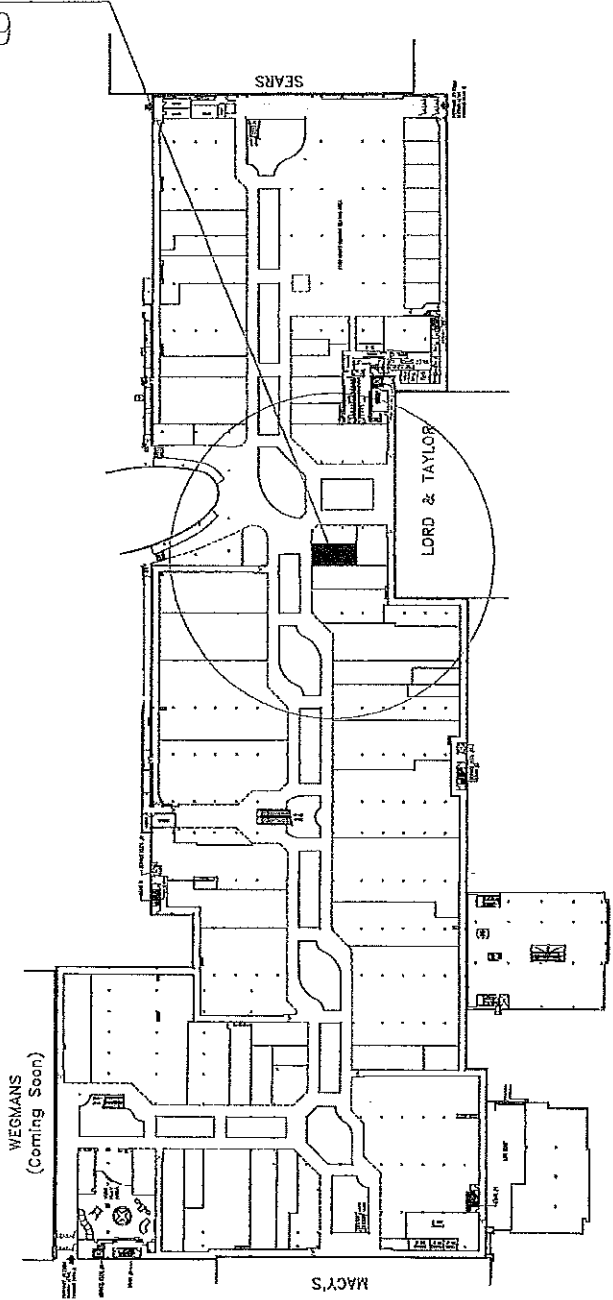
3. Prior to Tenant adding or removing equipment or devices or otherwise modifying the Leased Premises to either increase or decrease usage of HVAC services, or modifying its hours of operations, Tenant shall notify Landlord of such modification or change in writing and shall provide Landlord's engineer with a detailed description of the change or modification. Landlord's engineer shall then recalculate the Tenant's cooling load factor. The revised HVAC load factor shall become effective as of the date the modifications or changes are made. Landlord, at Landlord's Option, may elect to check Tenant's consumption of HVAC services from time to time and adjust the HVAC load factor accordingly.

#### **C. TENANT SUPPLIED HVAC**

For Leased Premises for which Tenant supplies its own HVAC services, the provisions of Lease EXHIBIT C and Lease ARTICLE 16 shall apply (in lieu of paragraphs A & B above), and Tenant shall be responsible for all costs and expenses relating to Tenant's own HVAC services.

M:\ORG\Teams\Development\Teams\CAD\_Centers\Well Plans\MASSACHUSETTS\NATICK MALL\JP-2\Exhibit\Natick Mall-2042.dwg 1/23/2018 Kubicki, Theresa

SPACE #2042  
SQ. FT. 869



NOTE:

EXHIBIT A IS FOR INFORMATIONAL PURPOSES ONLY AND IS INTENDED ONLY AS A GENERAL DESCRIPTION OF EXISTING OR CONTINGENTED IMPROVEMENTS TO BE MADE AS A PART OF THE SHOPPING CENTER, PROVIDED THAT LANDLORD MAKES NO REPRESENTATION THAT ANY FUTURE DEVELOPMENT WILL OCCUR AS SHOWN.

SPECIFIC NAMES, LOCATIONS, DIMENSIONS OF ANY STORES, ENTRANCES, OR IMPROVEMENTS ARE NOT INTENDED TO BE, NOR SHOULD BE RELIED UPON AND ARE SUBJECT TO CHANGE, MODIFICATION AND DELETION BY LANDLORD OR OTHER PARTIES, AND ARE NOT A REPRESENTATION OF, OR WARRANTY AS TO THE OPENING OR CONTINUED OPERATION OF ANY STORE NAMED OR DEPICTED IN THIS EXHIBIT A.

UPPER LEVEL

EXHIBIT A

NATICK MALL  
NATICK, MASSACHUSETTS



## **OPERATING AGREEMENT FOR MEMBER-MANAGED LIMITED LIABILITY COMPANY**

### **I. PRELIMINARY PROVISIONS**

(1) *Effective Date:* This operating agreement of **OSHIBI GROUP, LLC** effective **February 15, 2018**, is adopted by the members whose signatures appear at the end of this agreement (the "Agreement").

(2) *Formation:* This limited liability company (LLC) was formed by filing Articles of Organization, a Certificate of Formation or a similar organizational document with the LLC filing office of the state of **Massachusetts** on **January 23, 2018**. A copy of this organizational document has been placed in the LLC's records book.

(3) *Name:* The formal name of this LLC is as stated above. However, this LLC may do business under a different name by complying with the state's fictitious or assumed business name statutes and procedures.

(4) *Registered Office and Agent:* The registered office of this LLC and the registered agent at this address are as follows:

**HYERI YI**

**62 Rockland street**

**North Easton, MA 02356**

**USA**

The registered office and agent may be changed from time to time as the members may see fit, by filing a change of registered agent or office form with the state LLC filing office. It will not be necessary to amend this provision of the operating agreement if and when such a change is made.

(5) *Business Purposes:* The specific business purposes and activities contemplated by the founders of this LLC at the time of initial signing of this agreement consist of the following:

**To sell frozen yogurt, smoothie and other food.**

It is understood that the foregoing statement of purposes shall not serve as a limitation on the powers or abilities of this LLC, which shall be permitted to engage in any and all lawful business activities. If this LLC intends to engage in business activities outside the state of its formation that require the qualification of the LLC in other states, it shall obtain such qualification before engaging in such out-of-state activities.

(6) *Duration of LLC:* The duration of this LLC shall **have a perpetual existence**. Further, this LLC shall terminate when a proposal to dissolve the LLC is adopted by the membership of this LLC or when this LLC is otherwise terminated in accordance with law.

### **II. MEMBERSHIP PROVISIONS**

(1) *Non-liability of Members:* No member of this LLC shall be personally liable for the expenses, debts, obligations or liabilities of the LLC, or for claims made against it.

(2) *Reimbursement for Organizational Costs:* Members shall be reimbursed by the LLC for organizational expenses paid by the members. The LLC shall be authorized to elect to deduct organizational expenses and start-up expenditures ratably over a period of time as permitted by the Internal Revenue Code and as may be advised by the LLC's tax advisor.

(3) *Management:* This LLC shall be managed exclusively by all of its members.

(4) *Members' Percentage Interests:* A member's percentage interest in this LLC shall be computed as a fraction, the



numerator of which is the total of a member's capital account and the denominator of which is the total of all capital accounts of all members. This fraction shall be expressed in this agreement as a percentage, which shall be called each member's "percentage interest" in this LLC.

(5) *Membership Voting:* Except as otherwise may be required by the Articles of Organization, Certificate of Formation or a similar organizational document, other provisions of this operating agreement, or under the laws of this state, each member shall vote on any matter submitted to the membership for approval in proportion to the member's percentage interest in this LLC. Further, unless defined otherwise for a particular provision of this operating agreement, the phrase "majority of members" means the vote of members whose combined votes equal more than 50% of the votes of all members in this LLC.

(6) *Compensation:* Members shall not be paid as members of the LLC for performing any duties associated with such membership, including management of the LLC. Members may be paid, however, for any services rendered in any other capacity for the LLC, whether as officers, employees, independent contractors or otherwise.

(7) *Members' Meetings:* The LLC shall not provide for regular members' meetings. However, any member may call a meeting by communicating his or her wish to schedule a meeting to all other members. Such notification may be in person or in writing, or by telephone, facsimile machine, or other form of electronic communication reasonably expected to be received by a member, and the other members shall then agree, either personally, in writing, or by telephone, facsimile machine or other form of electronic communication to the member calling the meeting, to meet at a mutually acceptable time and place. Notice of the business to be transacted at the meeting need not be given to members by the member calling the meeting, and any business may be discussed and conducted at the meeting. If all members cannot attend a meeting, it shall be postponed to a date and time when all members can attend, unless all members who do not attend have agreed in writing to the holding of the meeting without them. If a meeting is postponed, and the postponed meeting cannot be held either because all members do not attend the postponed meeting or the non-attending members have not signed a written consent to allow the postponed meeting to be held without them, a second postponed meeting may be held at a date and time announced at the first postponed meeting. The date and time of the second postponed meeting shall also be communicated to any members not attending the first postponed meeting. The second postponed meeting may be held without the attendance of all members as long as a majority of the percentage interests of the membership of this LLC is in attendance at the second postponed meeting. Written notice of the decisions or approvals made at this second postponed meeting shall be mailed or delivered to each non-attending member promptly after the holding of the second postponed meeting. Written minutes of the discussions and proposals presented at a members' meeting, and the votes taken and matters approved at such meeting, shall be taken by one of the members or a person designated at the meeting. A copy of the minutes of the meeting shall be placed in the LLC's records book after the meeting.

(8) *Membership Certificates:* This LLC shall be authorized to obtain and issue certificates representing or certifying membership interests in this LLC. Each certificate shall show the name of the LLC, the name of the member, and state that the person named is a member of the LLC and is entitled to all the rights granted members of the LLC under the Articles of Organization, Certificate of Formation or a similar organizational document, this operating agreement and provisions of law. Each membership certificate shall be consecutively numbered and signed by one or more officers of this LLC. The certificates shall include any additional information considered appropriate for inclusion by the members on membership certificates. In addition to the above information, all membership certificates shall bear a prominent legend on their face or reverse side stating, summarizing or referring to any transfer restrictions that apply to memberships in this LLC under the Articles of Organization, Certificate of Formation or a similar organizational document and/or this operating agreement, and the address where a member may obtain a copy of these restrictions upon request from this LLC. The records book of this LLC shall contain a list of the names and addresses of all persons to whom certificates have been issued, show the date of issuance of each certificate, and record the date of all cancellations or transfers of membership certificates.

(9) *Other Business by Members:* Each member shall agree not to own an interest in, manage or work for another business, enterprise or endeavor, if such ownership or activities would compete with this LLC's business goals, mission, profitability or productivity, or would diminish or impair the member's ability to provide maximum effort and performance in managing the business of this LLC.

### III. TAX AND FINANCIAL PROVISIONS

(1) *Tax Classification of LLC:* The members of this LLC intend that this LLC be initially classified as a **S-corporation** for federal and, if applicable, state income tax purposes. It is understood that all members may agree to change the tax treatment of this LLC by signing, or authorizing the signature of, IRS Form 8832, Entity Classification Election, and filing it with the IRS and, if applicable, the state tax department within the prescribed time limits.

(2) *Tax Year and Accounting Method:* The tax year of this LLC shall be **January 1 to December 31st**. The LLC shall use the **accrual** method of accounting. Both the tax year and the accounting period of the LLC may be changed with the consent of all members if the LLC qualifies for such change, and may be effected by the filing of appropriate forms with the IRS and state tax authorities.

(3) *Tax Matters Partner:* If this LLC is required under Internal Revenue Code provisions or regulations, it shall designate from among its members a "tax matters partner" in accordance with Internal Revenue Code Section 6231(a)(7) and corresponding regulations, who will fulfill this role by being the spokesperson for the LLC in dealings with the IRS as required under the Internal Revenue Code and Regulations, and who will report to the members on the progress and outcome of these dealings.

(4) *Annual Income Tax Returns and Reports:* Within 60 days after the end of each tax year of the LLC, a copy of the LLC's state and federal income tax returns for the preceding tax year shall be mailed or otherwise provided to each member of the LLC, together with any additional information and forms necessary for each member to complete his or her individual state and federal income tax returns. If this LLC is classified as a partnership for income tax purposes, this additional information shall include a federal (and, if applicable, state) Form K-1 (Form 1065 - Partner's Share of Income, Credits, Deductions) or equivalent income tax reporting form. This additional information shall also include a financial report, which shall include a balance sheet and profit and loss statement for the prior tax year of the LLC.

(5) *Bank Accounts:* The LLC shall designate one or more banks or other institutions for the deposit of the funds of the LLC, and shall establish savings, checking, investment and other such accounts as are reasonable and necessary for its business and investments. One or more members of the LLC shall be designated with the consent of all members to deposit and withdraw funds of the LLC, and to direct the investment of funds from, into and among such accounts. The funds of the LLC, however and wherever deposited or invested, shall not be commingled with the personal funds of any members of the LLC.

(6) *Title to Assets:* All personal and real property of this LLC shall be held in the name of the LLC, not in the names of individual members.

### IV. CAPITAL PROVISIONS

(1) *Capital Contributions by Members:* Members shall make the following contributions of cash, property or services as shown next to each member's name below. Unless otherwise noted, cash and property described below shall be paid or delivered to the LLC on or by **2/20/2018**. The fair market values of items of property or services as agreed between the LLC and the contributing member are also shown below. The percentage interest in the LLC that each member shall receive in return for his or her capital contribution is also indicated for each member.

NAME & ADDRESS	CONTRIBUTION	% INTEREST IN LLC
(1) <u><b>Hyeri Yi</b></u> <u><b>62 Rockland Street</b></u> <u><b>North Easton, MA 02356</b></u>	<u><b>\$ 100</b></u>	<u><b>100%</b></u>
(2) _____	_____	_____
_____	_____	_____
_____	_____	_____

(3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) *Additional Contributions by Members:* The members may agree, from time to time by unanimous vote, to require the payment of additional capital contributions by the members, on or by a mutually agreeable date.

(3) *Failure to Make Contributions:* If a member fails to make a required capital contribution within the time agreed for a member's contribution, the remaining members may, by unanimous vote, agree to reschedule the time for payment of the capital contribution by the late-paying member, setting any additional repayment terms, such as a late payment penalty, rate of interest to be applied to the unpaid balance, or other monetary amount to be paid by the delinquent member, as the remaining members decide. Alternatively, the remaining members may, by unanimous vote, agree to cancel the membership of the delinquent member, provided any prior partial payments of capital made by the delinquent member are refunded promptly by the LLC to the member after the decision is made to terminate the membership of the delinquent member.

(4) *No Interest on Capital Contributions:* No interest shall be paid on funds or property contributed as capital to this LLC, or on funds reflected in the capital accounts of the members.

(5) *Capital Account Bookkeeping:* A capital account shall be set up and maintained on the books of the LLC for each member. It shall reflect each member's capital contribution to the LLC, increased by each member's share of profits in the LLC, decreased by each member's share of losses and expenses of the LLC, and adjusted as required in accordance with applicable provisions of the Internal Revenue Code and corresponding income tax regulations.

(6) *Consent to Capital Contribution Withdrawals and Distributions:* Members shall not be allowed to withdraw any part of their capital contributions or to receive distributions, whether in property or cash, except as otherwise allowed by this agreement and, in any case, only if such withdrawal is made with the written consent of all members.

(7) *Allocations of Profits and Losses:* No member shall be given priority or preference with respect to other members in obtaining a return of capital contributions, distributions or allocations of the income, gains, losses, deductions, credits or other items of the LLC. The profits and losses of the LLC, and all items of its income, gain, loss, deduction and credit shall be allocated to members according to each member's percentage interest in this LLC.

(8) *Allocation and Distribution of Cash to Members:* Cash from LLC business operations, as well as cash from a sale or other disposition of LLC capital assets, may be distributed from time to time to members in accordance with each member's percentage interest in the LLC, as may be decided by NA of the members.

(9) *Allocation of Noncash Distributions:* If proceeds consist of property other than cash, the members shall decide the value of the property and allocate such value among the members in accordance with each member's percentage interest in the LLC. If such noncash proceeds are later reduced to cash, such cash may be distributed among the members as otherwise provided in this agreement.

(10) *Allocation and Distribution of Liquidation Proceeds:* Regardless of any other provision in this agreement, if there is a distribution in liquidation of this LLC, or when any member's interest is liquidated, all items of income and loss shall be allocated to the members' capital accounts, and all appropriate credits and deductions shall then be made to these capital accounts before any final distribution is made. A final distribution shall be made to members only to the extent of, and in proportion to, any positive balance in each member's capital account.

## **V. MEMBERSHIP WITHDRAWAL AND TRANSFER PROVISIONS**

(1) *Withdrawal of Members:* A member may withdraw from this LLC by giving written notice to all other members at least 30 days before the date the withdrawal is to be effective.

*(2) Restrictions on the Transfer of Membership:* A member shall not transfer his or her membership in the LLC unless all non-transferring members in the LLC first agree to approve the admission of the transferee into this LLC. Further, no member may encumber a part or all of his or her membership in the LLC by mortgage, pledge, granting of a security interest, lien or otherwise, unless the encumbrance has first been approved in writing by all other members of the LLC. Notwithstanding the above provision, any member shall be allowed to assign an economic interest in his or her membership to another person without the approval of the other members. Such an assignment shall not include a transfer of the member's voting or management rights in this LLC, and the assignee shall not become a member of the LLC.

## **VI. DISSOLUTION PROVISIONS**

*(1) Events That Trigger Dissolution of the LLC:* The following events shall trigger dissolution of the LLC, except as provided:

- (a) the death, permanent incapacity, bankruptcy, retirement, resignation or expulsion of a member, except that within NA of the happening of any of these events, all remaining members of the LLC may vote to continue the legal existence of the LLC, in which case the LLC shall not dissolve;
- (b) the expiration of the term of existence of the LLC if such term is specified in the Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement;
- (c) the written agreement of all members to dissolve the LLC;
- (d) entry of a decree of dissolution of the LLC under state law.

## **VII. GENERAL PROVISIONS**

*(1) Officers:* The LLC may designate one or more officers, such as a President, Vice President, Secretary and Treasurer. Persons who fill these positions need not be members of the LLC. Such positions may be compensated or non-compensated according to the nature and extent of the services rendered for the LLC as a part of the duties of each office. Ministerial services only as a part of any officer position will normally not be compensated, such as the performance of officer duties specified in this agreement, but any officer may be reimbursed by the LLC for out-of-pocket expenses paid by the officer in carrying out the duties of his or her office.

*(2) Records:* The LLC shall keep at its principal business address a copy of all proceedings of membership meetings, as well as books of account of the LLC's financial transactions. A list of the names and addresses of the current membership of the LLC also shall be maintained at this address, with notations on any transfers of members' interests to nonmembers or persons being admitted into membership in the LLC.

Copies of the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, a signed copy of this operating agreement, and the LLC's tax returns for the preceding three tax years shall be kept at the principal business address of the LLC. A statement also shall be kept at this address containing any of the following information that is applicable to this LLC:

- the amount of cash or a description and value of property contributed or agreed to be contributed as capital to the LLC by each member;
- a schedule showing when any additional capital contributions are to be made by members to this LLC;
- a statement or schedule, if appropriate, showing the rights of members to receive distributions representing a return of part or all of members' capital contributions; and
- a description of, or date when, the legal existence of the LLC will terminate under provisions in the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement.



If one or more of the above items is included or listed in this operating agreement, it will be sufficient to keep a copy of this agreement at the principal business address of the LLC without having to prepare and keep a separate record of such item or items at this address. Any member may inspect any and all records maintained by the LLC upon reasonable notice to the LLC. Copying of the LLC's records by members is allowed, but copying costs shall be paid for by the requesting member.

(3) *All Necessary Acts:* The members and officers of this LLC are authorized to perform all acts necessary to perfect the organization of this LLC and to carry out its business operations expeditiously and efficiently. The Secretary of the LLC, or other officers, or all members of the LLC, may certify to other businesses, financial institutions and individuals as to the authority of one or more members or officers of this LLC to transact specific items of business on behalf of the LLC.

(4) *Indemnification:* The LLC shall indemnify the Member and those authorized officers, agents, and employees of the LLC identified in writing by the Member as entitled to being indemnified under this section for all costs, losses, liabilities and damages paid or accrued by the Member (as the Member or officer, agent, or employee) or any such office, agent, or employee in connection with the business of the LLC, except to the extent prohibited by the laws of the state that governs this Agreement. In addition, the LLC may advance costs of defense of any proceeding to the Member or any such officer, agent, or employee upon receipt by the LLC of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that the person is not entitled to be indemnified by the LLC.

(5) *Mediation and Arbitration of Disputes Among Members:* In any dispute over the provisions of this operating agreement and in other disputes among the members, if the members cannot resolve the dispute to their mutual satisfaction, the matter shall be submitted to mediation. The terms and procedure for mediation shall be arranged by the parties to the dispute. If good-faith mediation of a dispute proves impossible or if an agreed-upon mediation outcome cannot be obtained by the members who are parties to the dispute, the dispute may be submitted to arbitration in accordance with the rules of the American Arbitration Association. Any party may commence arbitration of the dispute by sending a written request for arbitration to all other parties to the dispute. The request shall state the nature of the dispute to be resolved by arbitration, and, if all parties to the dispute agree to arbitration, arbitration shall be commenced as soon as practical after such parties receive a copy of the written request. All parties shall initially share the cost of arbitration, but the prevailing party or parties may be awarded attorney fees, costs and other expenses of arbitration. All arbitration decisions shall be final, binding and conclusive on all the parties to arbitration, and legal judgment may be entered based upon such decision in accordance with applicable law in any court having jurisdiction to do so.

(6) *Governing Law:* This Agreement shall be governed by, and interpreted and enforced in accordance with, the substantive laws of the State in which the LLC was formed, without reference to the conflicts of law rules of that or any other jurisdiction.

(7) *Entire Agreement:* This operating agreement represents the entire agreement among the members of this LLC, and it shall not be amended, modified or replaced except by a written instrument executed by all the parties to this agreement who are current members of this LLC as well as any and all additional parties who became members of this LLC after the adoption of this agreement. This agreement replaces and supersedes all prior written and oral agreements among any and all members of this LLC.

(8) *Severability:* If any provision of this agreement is determined by a court or arbitrator to be invalid, unenforceable or otherwise ineffective, that provision shall be severed from the rest of this agreement, and the remaining provisions shall remain in effect and enforceable.

## **VIII. SIGNATURES OF MEMBERS**

*Execution of Agreement:* In witness whereof, the members of this LLC sign and adopt this agreement as the operating agreement of this LLC.

Date: Feb 2, 2018

Signature: 

Printed Name: Hyeri Yi, Member

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_, Member

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_, Member