ABSOLUTE TRIPLE NET - UNSUBORDINATED LEASE

THIS LEASE is made and executed as of the _____ day of _____ 2019, between the **City of Stuart,** a municipal corporation, 121 SW Flagler Avenue, Stuart, FL 34994, hereinafter referred to as LESSOR", and **Stuart Main Street Association, Inc.,** a Florida not for profit corporation, Stuart, Florida, 34994, hereinafter referred to as "LESSEE."

Section 1. Demise, Description and Use of Premises.

In consideration of the sum of Ten and No/100 Dollars ($10.00) to it in hand paid this day, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor leases to Lessee upon the terms and conditions contained herein, for the purpose of conducting thereon any lawful business and for no other purpose, the following described building located in Martin County, Florida, to wit:

See the Site plan depicted in Exhibit "A" attached hereto and made a part hereof.

As used herein, the term "Premises" refers to structure described in Exhibit A and to any improvements located thereon from time to time during the term hereof.

Section 2. Commencement and Term.

The term of this Lease shall commence on the date of full execution of this Lease (the "Commencement Date"). Rental payments due hereunder shall be payable in advance and shall commence on January 1, 2020. In exchange for acceptance of the Premises in an "As Is" condition and as a set off for repairs and improvements, the City shall provide a rent credit equivalent to the first 6 months. Therefore, the first actual payment to the City shall occur on July 1, 2020 which shall be the seventh month of the first year of the agreement ("Rent Commencement Date"). The rent abatement shall not apply to any expenses other than the "basic" rent. The Lessee shall remain responsible for all taxes, insurance, utilities and maintenance during the rent abatement period.

The term of this Lease shall continue for a period of three (3) years from the Commencement Date subject to extension or prior termination as set forth herein.

Section 3. Lease Option Right to Extend.

Provided the Lessee is not in default under any of the terms and conditions of this Lease, and provided the Lessee has faithfully performed all of its covenants and undertakings contained in this Lease, Lessee shall have the right to request an extension beyond the initial term of this Lease for two additional terms of three (3) years each upon the same terms and conditions however the rental amount shall be based upon the rental payment as adjusted throughout the original lease terms**..** The term of the Lease shall be extended upon the mutual agreement of the parties. Lessee shall request permission to exercise its option to extend not less than one hundred twenty (120) days prior to commencement of the next ensuing extension term. The Lessor shall place the request on the City Commission calendar as soon as is

reasonably possible after said request. The parties agree that there are no specific criteria that shall guarantee that the request is granted but rather shall be at the sole discretion of the Lessor and Lessee. Such notice shall be sent to the Lessor either by registered or certified mail, return receipt requested, postage prepaid, at the address of Lessor set forth above or such other address as Lessor may direct in writing. Options can only be exercised one at a time and only consecutively. Lessee may only request permission to exercise an option during the final year of that lease term.

Section 4. Basic Rent.

It is the purpose and intent of the Lessor and the Lessee that the rent shall be absolute net to the Lessor. Lessee hereby agrees to pay to Lessor rent for the leased Premises land, the sum of Thirty Thousand and 00/100 Dollars ($30,000.00) , payable solely for the convenience of Lessee in equal monthly installments of Two Thousand Five Hundred and 00/100 Dollars ($2,500.00) payable on the first (1st) day of each month, in advance, from the Rent Commencement Date, January 1, 2020, throughout the term of this Lease, including any renewal terms subject to adjustment as hereinafter set forth. In the event that this Rent Commencement Date falls on some day other than the first day of a calendar month, the first month's rent shall be prorated to reflect the actual period for which rent is payable. Payment shall be made in the form of a locally drawn (Martin County, Florida) bank's check and shall be made to whoever the Lessor designates, in writing, from time to time. All sums due as rent or additional rent shall be paid without set-off for any reason.

Section 4(a). Late Fee. The rent is due no later than the 1st day of each month. Any rent not tendered to the Lessor by 5:00 p.m. on the First day of the month is deemed late. Should exceptional circumstances prevent prompt payment of the rent, Lessee agrees to pay a late fee equal to 10% of the current monthly rental obligation. During the first year, this late fee shall be the sum of Two Hundred and Fifty ($250.00).

Section 4(b). The Lessee shall be responsible for all utilities, cable, water, electric, gas or any other expenses related to the normal operation of the Premises. Further, it shall remain a material obligation of the Lessee to maintain electricity to the Premises and maintain the air conditioning at such a level as to avoid excessive moisture, humidity or the generation of mold for failure to maintain properly.

Section 5. Rent Escalation.

Commencing on the anniversary date of the Commencement Date and each year thereafter, the monthly Base Rental shall be increased by 3%. The indexed rental payment shall be due and payable without notice of increase on January 1 and each month thereafter until the next index occurs.

Section 6. Taxes and Assessments.

Beginning on the Commencement Date and throughout the term of this Lease thereafter, including any extension terms, Lessee shall pay, as additional rent hereunder, before they become delinquent, all taxes. "Taxes" as used herein, means all real Premises taxes, rates, duties and assessments, local improvement taxes, whether a general or special, that are levied, rated, charged or assessed against the Premises or any part thereof and any assessments or special assessments, whether Federal, State, Municipal, School, or otherwise, and any and all taxes which are imposed in lieu of, or in addition to any such real Premises taxes whether of the foregoing character or not and whether in existence at the Commencement Date. The Lessee shall pay the Premises taxes no later than November 30 of the year during which the tax notice is received.

Lessor shall promptly forward to Lessee all notices, bills or invoices Lessor receives requiring payment for any of the items set forth above.

All taxes for the beginning and ending years of the term hereof, from date hereof, including any extension terms, shall be prorated between Lessor and Lessee based upon the respective periods in which they hold possession of the Premises.

Lessee may contest any tax or assessment it is required to pay and may file protests or otherwise proceed in the name of Lessor. No contest may be filed for the first year's taxes. Thereafter, any contest must be made by posting with the Lessor sufficient collateral, in a form acceptable to Lessor, to protect the Lessor against loss of the Premises by tax sale or other tax collection procedure. Lessor may use the collateral at any time Lessor determines in good faith, that such a loss is imminent.

All Federal or State sales taxes or taxes similar in nature imposed upon payments made by a Lessee to a Lessor or upon this lease whether on the rents, additional rent or the lease or leasing privilege shall be paid in full by Lessee promptly when due or upon demand therefore.

Section 7. Permitted Uses.

Lessee shall be entitled to develop the Premises for use as a recreational, educational and cultural event center. Lessor hereby agrees not to affirmatively interfere with Lessee's efforts to so develop the Premises, except that all improvements collectively costing $2,000 or more to the Premises shall be subject to the approval of the City. Lessee shall be responsible for the payment of any and all costs incurred in connection with the development of the Premises including the preparation of any applications, plans, surveys or other documents and all impact fees and development or permit fees incurred in connection with development of the Premises.

Beginning not later than January 1, 2020, the Lessee shall keep the Premises open and available for use by its customers on all days of the year, subject to closure only upon the written approval of the City Manager. The Lessee shall maintain and keep an office open and available to public business invitees, not less than on Monday through Friday, 9:00 AM to 5:00 PM. The parties further agree that the Lessee shall be permitted to close the Premises upon ten (10) days written notice to the City Manager, for up to three (3) weeks during the period from July 15th to September 15th each year, for the purpose of cleaning, painting, making improvements and taking vacation, subject only to honoring any bookings during that time.

Lessee acknowledges that at the time this Lease is entered by the parties, the Lessor has agreed and "booked" certain events which shall be honored by the Lessee.

The Lessor shall retain the use of the Premises for "City Days and the Fourth of July." July 4 shall be deemed a City day. The Lessee shall reserve the entire premise on July 4 each year at no cost. Number of days set aside for City of Stuart sponsored events or specific use by the City of Stuart shall not exceed 25 days annually, without prior approval of Lessee. Except for Lessor's events, a Booked Event is described as an event where the Lessee has taken a deposit and has entered into a contract with a customer for the use of the Premises on a specific date and time. In the event that the Premises shall not be entirely under such contract, the Lessor may, at its sole option, retain use of the remainder of the Premises for any event. Lessor shall not be required to pay any fee or rent for its use of the Premises for City Days. Lessor shall be responsible to the Lessee for paying the actual cost of producing events, including labor and materials,

food, and beverages, subject to the later written agreement for such use by the Lessee and the City Manager; however Lessor is not required to use Lessee's services or vendors.

Further, the Lessee shall agree to provide a minimum of twelve (12) discounted days where the facility is available at a rate of 50% of the market rate. These days shall only be available to City Residents or qualified non-for profit entities with a 501(c)(3) or 501(c)(4) status that maintain a business tax receipt in the City of Stuart. Stuart Main Street Association, Inc. shall be allowed to choose the days and the process for which they are distributed to the qualified applicants but must provide the City with the list of all dates that were available at the reduced rate for each year. The parties agree that Stuart Main Street Association, Inc. shall make the reduced rate dates available at least 60 days in advance and shall provide a procedure for the application and selection of licensees which shall be offered the discounted rate.

Nothing contained herein shall be construed so as to require Lessor to execute any document or instrument, which would create any financial liability neither on the part of Lessor nor upon the subject Premises, nor alter or impair Lessor's rights under this Lease. There is no obligation under this Lease for Lessor to convey or burden any part of or all of the fee interest of the subject Premises or grant or agree to any condition, which will burden the Premises beyond the Lease term. Any such condition shall terminate when the Lease terminates.

Section 8. Encumbrances of Lessee's Leasehold Interest.

Lessee shall not encumber its Leasehold interest in the Premises together with all improvements placed thereon by Lessee, as security for any indebtedness of Lessee.

Section 9. Assignment and Sublease

Lessee may not assign all or any portion of this Lease or sublease the whole or any part of the Premises, including portions of any improvements erected thereon by Lessor or other portions of the Premises for any purpose without the express, written consent of Lessor (City Manager), which consent shall not be unreasonably withheld or delayed. Any assignment or sublease may be conditioned by the Lessor on the commercial suitability, the good reputation in the community, and the financial strength and solvency of the proposed assignee or sub-Lessee. Lessee shall remain liable for the full performance of its covenants and obligations under this Lease for the entire term hereof. No sub-lease can extend beyond the existing term of this Lease. No sub-lease can alter the terms hereof.

Section 10. Uses Prohibited.

Lessee shall not use or permit the use of the Premises, or any part thereof, for any illegal purpose or purposes, nor shall Lessee maintain a nuisance on the Premises or use or permit the use thereof for immoral purposes. The Premises may not be used as a toxic waste dump or storage facility, a solid waste disposal site or any use which could have a harmful effect on the land itself. The Lessee shall not commit waste. No use may be made of the Premises which would legally impair the right to collect rental adjustments called for herein.

Section 10(a). Zero Waste.

The City of Stuart is in the process of adopting a policy regarding the use of non-recyclable materials in its parks and on City owned Premises. Lessee shall remain in full compliance with any future City Policy regarding the prohibition of non-recyclable materials on City Premises. The regulation of non-recyclable

materials shall constitute a material provision of this agreement. The Lessee shall be subject to any penalties set forth by the City Commission in any future policies regarding same. In addition, violation of the policy shall constitute a material breach and act as a basis for termination of this Agreement at the discretion of the Lessor.

Section 11. Improvements, Repairs, Additions, Replacements to the Real Premises.

Lessee shall, at all times during the term of this Lease, and at its own cost and expense, keep and maintain or cause to be kept and maintained in good repair and good condition (ordinary wear and tear excepted), all buildings and improvements at any time erected on the Premises, and shall use all reasonable precaution to prevent waste, damage or injury. Any structural modifications including repairs or additions must be approved by the City of Stuart in writing prior to initiation of same.

Lessor shall not be required to furnish any services or facilities or to make any improvements, repairs, or alterations in or to the Premises during the term of this Lease, it being understood that the Lessee takes the Premises in an "AS IS" condition, having made all of the inspections it chose to make, prior to entering into this Lease, and that the Lessee is satisfied with the condition of the Premises.

Lessee's rights, as set forth in this Section 11, shall be subject to the following conditions:

A. The cost of any such construction, or of any change, alteration or improvements, shall be borne and paid for by Lessee.

B. The Premises shall, at all times, be kept free of mechanics and material men's liens.

C. During the term of the Lease (or any extended term acquired by exercise of an option hereunder), Lessee shall not demolish or remove any building or improvements located on the Premises. At the end of term hereof, all improvements located on the Premises will become the Premises of Lessor and at Lessor's option, Lessor can require Lessee to remove all or any part of the improvements and to place the Premises in their original condition.

Section 12. Insurance.

Lessee covenants to provide, during the entire term hereof at Lessee's own cost and expense, as additional rent, by advance payment of premiums, a comprehensive liability policy of insurance protecting Lessor and Lessee as their interest may appear against any liability whatsoever, occasioned by accident on or about the demised Premises or any appurtenances thereto. Such policy shall be approved by Lessor, written by a company rated not less than "AAA", by Best's Register, in an amount not less than One Million Dollars ($1,000,000) to cover the claim of damage from any single person, and not less than Two Million Five Hundred Thousand Dollars ($2,500,000) to cover more than a single claim which may arise from a single action, and in the sum of Five Hundred Thousand Dollars ($500,000) in respect to claims for Premises damage. Such policy shall insure Lessee and Lessor against any liability that may accrue against them or either of them, on account of any occurrence on or to the demised Premises during the term thereof, resulting in personal injury, death, Premises damage, liquor liability or any other liability whatsoever; and said policies shall include indemnity against loss, expense and damage of any and every kind, including costs of investigation and attorney's fees, and other costs of defense. Lessee shall see to it that the Lessor shall at all times be in possession of a valid Certificate of Insurance, naming the City of Stuart as an additional insured. Lessee agrees to pay all premiums for all policies promptly as additional

rent and deliver to Lessor an original or duplicate original of all such policies, together with evidence of payment of premium thereon, upon the beginning date of this Lease, and from time to time thereafter as premiums shall fall due. Lessor may increase the amounts of required insurance coverage provided the same is commercially reasonable.

All insurance coverage called for under the Lease shall contain provisions granting Lessor the same notification rights that it provides to the first named insured as respects cancellation and nonrenewal, and shall be written by an insurance company authorized to do business in Florida. Copies of the policies shall be promptly furnished to Lessor.

All hazard insurance policies carried by the Lessee covering Premises located on the demised Premises will provide that the Lessor is an additional named insured, as its interest may appear.

Section 13. Indemnify Lessor.

In consideration of said Premises being leased to Lessee for the above rental, Lessee agrees: that Lessee, at all times, will indemnify and hold harmless Lessor from all losses, damages, liabilities and expenses, which may arise or be claimed against Lessor and be in favor of any persons, firms or corporations, for any injuries or damages to the person or Premises of any persons, firms or corporations, consequent upon or arising from the use or occupancy of said Premises by Lessee, or consequent upon or arising from any acts, omission, neglect or fault of Lessee, his agents, servants, employees, licensees, visitors, customers, patrons, or invitees, or consequent upon or arising from Lessee's failure to comply with any laws, statutes, ordinances, codes or regulations as herein provided; that Lessor shall not be liable to Lessee for any damages, losses or injuries to the persons or to Premises of Lessee which may be caused by the acts, neglect, omissions or faults of any persons, firms or corporations, and that Lessee will indemnify and keep harmless Lessor from all damages, liabilities, losses, injuries or expenses which may arise or be claimed against Lessor and be in favor of any persons, firms or corporations, for any injuries or damages to the person or Premises of any persons, firms or corporations, where said injuries or damages arose about or upon said Premises as a result of the negligence of Lessee, his agents, employees, servants, licensees, visitors, customers, patrons and invitees. All personal Premises placed or moved into the Leased Premises or Building shall be at the risk of Lessee or the owners thereof, and Lessor shall not be liable to Lessee for any damages to said personal Premises. Lessee shall maintain at all times during the term of this Lease an insurance policy or policies in an amount or amounts sufficient to indemnify Lessor and to pay Lessor's damages, if any, resulting from any matters set forth hereinbefore in this Paragraph 13. LESSEE WAIVES ALL RIGHTS TO RECOVER FROM LESSOR FOR ANY DAMAGES CAUSED BY NEGLIGENCE OF LESSOR, ITS AGENTS OR EMPLOYEES. Lessee's insurance policies shall contain a waiver of the right of subrogation as against the Lessor.

Section 14. Time.

It is understood and agreed between the parties hereto that time is of the essence of all the terms, provisions, covenants and conditions of this Lease.

Section 15. Condemnation.

A. If, at any time during the term of this Lease, title to all of the Premises shall be taken by the exercise of the right of condemnation or eminent domain, this Lease shall terminate and expire on the date of such taking, and the rent and other charges provided to be paid by Lessee shall be apportioned and paid to the date of such taking.

B. If at any time during the term of this Lease, title to less than all of the Premises shall be taken as aforesaid, this Lease shall continue (unless Lessee shall elect to terminate this Lease by giving notice thereof to Lessor within thirty (30) days after the date of such taking, in which case this Lease shall terminate on the date therefore set forth in such notice), except that thereafter the rent shall be reduced to a fraction of the former amount which fraction shall be determined by dividing the area of the untaken portion of the Premises by the area of the Premises immediately before the taking.

C. Lessee may, at its option, but shall not be required to, repair, restore, replace or rebuild any damage or destruction to the Premises and improvements located thereon resulting or arising from any taking of all or any part thereof.

Section 16. Requirements of Public Authority.

A. During the term of this Lease, Lessee shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations (collectively "regulations") of the Federal, State, County, and City Governments and of all other governmental authorities affecting the Premises or appurtenances thereto or any part thereof whether the same are in force on the Commencement Date or may in the future be passed, enacted, or directed, and Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this Section 16. If such regulations shall so restrict the use or development of the Premises so as to render the development of the Premises unfeasible in the discretion of Lessee, Lessee shall have the option to terminate this Lease upon thirty (30) days written notice to Lessor.

B. Lessee shall have the right to contest by appropriate legal proceeding diligently conducted in good faith in the name of the Lessee, without costs, liability or expense to Lessor, the validity or application of any law, ordinance, rule, regulation or requirement of the nature referred to in paragraph (A) of this Section and, if by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith may legally be delayed pending the prosecution of any such proceeding, Lessee may delay such compliance therewith until the final determination of such proceedings. Nothing herein shall delay the payment of all sums due to Lessor herein required to be paid.

C. As a condition precedent to Lessee filing any claim against City, Lessee shall make available to City all of Lessee's books and records (directly or indirectly related to the claim of Lessee's business) requested by City. Refusal to do so shall constitute a material breach of this contract.

D. Maintenance and Public Access to Records: In compliance with F.S. 119.0701. the Lessee shall maintain and respond to any public records requests. This clause is not intended to indicate that the Lessee is subject to F.S. 119.0701 or that any services are being rendered on behalf of the City. However, in the event that there are public records generated during the course of the agreement, Lessee shall:

1. Keep and maintain public records that would ordinarily and necessarily be required by the City of Stuart in order to perform the services provided by the Lessee. This includes, without limitation, any and all financial, accounting, operational, time or service records or reports kept, generated or issued as a normal part of the services provided.
2. Provide the public with access to these public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
3. Ensure that public records that are considered exempt or confidential by law, and therefore exempt from public records disclosure requirements, are not disclosed except as authorized by law.
4. Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Lessee upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
5. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.
6. If the Lessee does not comply with a public records request, the City shall be entitled to enforce these contract provisions by any legal or equitable means available, including, without limitation, damages, injunctive relief or both.
7. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 772-288-5312 or 121 SW Flagler Avenue, Stuart, Florida 34994.

Section 17. Lessor's Title/Possession.

Lessor covenants that as of the Commencement Date: Lessor shall have the fee simple title to the Premises with full right and authority to make this Lease; the Premises shall be leased to the Lessee subject to all liens, easements and restrictions. Lessee has surveyed the Premises and has accepted the state of the survey. Lessee shall be delivered possession of the Premises; and Lessee shall have quiet and peaceful possession and enjoyment of the Premises and of all appurtenances thereunto belonging during the term of this Lease including all extension terms.

Section 18. Care of Premises.

Lessee shall in nowise violate any of the zoning or other governmental restrictions now or hereafter placed upon the said Premises. Lessee shall, at its sole expense, pay for any alterations, repairs, replacements, improvements, machinery or equipment which may be required by any applicable governing body now or at any time during the term of this Lease.

Section 19. Conditional Limitations – Lessee Default Provisions.

This lease and the term hereof are subject to the limitation that if, at any time during the term of this Lease, any one or more of the following events (herein called an "event of default") shall occur, that is to say:

A. If Lessee shall make an assignment of this Lease for the benefit of its creditors; or

B. If any petition shall be filed against Lessee in any court, whether or not pursuant to any Statute of the United States or of any State, in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings, and Lessee shall thereafter be adjudicated bankrupt, and if any such proceedings shall not be dismissed within ninety (90) days after the institution of the same; or if any such petition shall be so filed by Lessee; or

C. If Lessee shall fail to pay any installment of the rent, or any part hereof, when the same shall become due and payable, and such failure shall continue for ten (10) days; or

D. If Lessee shall fail to pay when due any other charge required to be paid by Lessee hereunder, and such failure shall continue for ten (10) days after written notice thereof from Lessor to Lessee; or

E. If Lessee shall fail to perform or observe any other requirement of this Lease (on the part of Lessee to be performed or observed, and such failure shall continue for a term longer than the time allotted to cure as set forth in the notice letter;

Then upon the happening of any one or more of the aforementioned events of default, and the expiration of the period of time for remedying the same, Lessor may:

a. Give to Lessee a notice hereinafter called ("notice of termination") ending the term of this Lease and the term hereof, as well as all of the right, title and interest of the Lessee hereunder, which shall wholly cease and expire in the same manner and with the same force and effect as if the date originally specified herein for the expiration of this Lease had arrived and the Lessee shall then quit and surrender the Premises to Lessor, and

b. Lessor may at any time after an event of default re-enter the Premises and remove Lessee therefrom, and all or any of its Premises therefrom, either by summary dispossess proceedings or by any suitable action or proceeding at law, and

c. It is expressly and specifically covenanted and agreed that the entire unpaid balance of the basic rental with an estimated adjustment as provided in Paragraph 5 and the entire amount of estimated additional rental to the end of the term, based upon existing additional rentals already accrued, shall, at the sole option of the Lessor, immediately become due and payable, and

d. All of the right, title, estate and interest of Lessee (i) in and to the improvements, all changes, additions, alterations therein, and all renewals and replacements thereof, and (ii) all rents, sub-leases, issues and profits of the Premises, or any part thereof, whether then accrued or to accrue, shall automatically pass to, vest in, and belong to Lessor, without further action on the part of either party, free of any claim thereto by Lessee.

e. Lessor shall have any other remedy provided by Florida law.

f. FORCE MAJEURE: Any delay or failure in the performance by either Party hereunder shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event

that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane or sabotage terrorism that are beyond the reasonable anticipation and control of the Party affected thereby, despite such Party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a Party's failure to perform its obligations under this Agreement.

Section 20. Lessor's Defaults.

If Lessor fails to perform or observe any requirements or covenant of this Lease to be performed and observed by Lessor and such default continues after written notice thereof from Lessee to Lessor, Lessee shall have the option of terminating this Lease without waiving any other legal rights hereunder or in the alternative, Lessee shall have the right of specific performance.

Section 21. Waivers.

Failure of Lessor or Lessee to complain of any act or omission on the part of the other party no matter how long the same may continue shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Lessor or Lessee at any time, express or implied, of any breach of any provisions of this Lease shall be deemed a waiver of a breach of any other provisions of this Lease or a consent to any subsequent breach of the same of any other provisions. No acceptance by Lessor of any partial payment shall constitute an accord or satisfaction, but shall only be deemed a partial payment on account.

Section 22. Notices, Etc.

All notices, consents, demands and requests which are required or desired to be given by either party to the other shall be in writing. All such notices, consents, demands and requests shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to the other party at its address set forth in this Lease, or at such other place as it may from time to time designate in a written notice to the other party given pursuant to the provisions of this Section. Notices, consents, demands and requests which are served upon Lessor or Lessee in the manner aforesaid, shall be deemed to have been given or served for all purposes hereunder on the third (3^{rd}) business day next following the date on which such notice, consent, demand or request shall have been mailed as aforesaid.

Section 23. Governing Law.

This Lease and the performance of the covenants and terms thereof shall be governed, interpreted, construed and regulated in accordance with the laws of the State of Florida. Venue for any lawsuit to enforce the terms and obligations of this Contract shall lie exclusively in the County Court or the Circuit Court in and for Martin County, Florida.

Section 24. Partial Invalidity.

If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is

held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 25. Sales Taxes.

Lessor will endeavor to collect and Lessee shall promptly pay all sales or similar type taxes imposed upon the various amounts of money payable as rent hereunder. In the event it is subsequently determined that any amount required to be paid or paid for hereunder is subject to such tax, Lessee shall promptly pay the same and any penalties and interest payable thereon.

Section 26. Covenants Binding the Respective Parties.

Except as herein expressly provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective heirs, successors and assigns. This Lease and all or any of its provisions are not intended and shall not be construed as for the benefit of any third party or parties, whatsoever.

Section 27. Disposition of Improvements on Termination of Lease.

On termination of this Lease for any cause, Lessor shall become the owner of any building or improvements on the Premises. If Lessee is not in default, Lessee shall however have the right to remove any furniture, fixtures, equipment or other things which may be removed from the Premises without changes to any of the buildings or improvements hereinafter located on the Premises.

Section 28. Broker's Commission.

There is no real estate commission due to any party related to this transaction.

Section 29. Attorney's Fees and Costs.

In connection with any litigation arising out of this Lease, the prevailing parties shall be entitled to recover all costs incurred, including reasonable attorneys' fees and costs through and including any and all appellate actions.

Section 30. Lessee's Attornment.

In the event of a transfer of Lessor's interests in the Premises or the purchase of the Lessor's interest therein in a foreclosure sale or by deed in lieu of foreclosure under any mortgage or the purchase, pursuant to a power of sale contained in any mortgage, then in any such events, Lessee shall, at Lessor's request, attorn to and recognize the transferee or purchaser of the Lessor's interest, as the case may be, as Lessor under this Lease, for the balance then remaining of the term and thereafter this Lease shall continue as it is directly between such person as "Lessor" and "Lessee", it being agreed that no such transferee shall have the right to disturb Lessee's tenancy hereunder so long as Lessee shall not be in default under the terms hereof.

Section 31. Waiver of Trial by Jury.

It is mutually agreed by and between Lessor and Lessee that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties

hereto against the other on any matter arising out of or in any way connected with this Lease, the relationship of Lessor and Lessee and Lessee's use of or occupancy of the Premises. Lessee further agrees that it shall not interpose any counterclaim or counterclaims in a summary proceeding or in any action based upon nonpayment of rent or any other payment required of Lessee hereunder.

Section 32. Additional Terms and Conditions.

A. If the Lessee fails to pay any sum when due for taxes, insurance or other sums required to be paid under the Lease, the Lessor may, at Lessor's option and without waiving its right to dispossess Lessee, pay such sum and such sum shall immediately become due and payable as additional rent.

B. All rents due under the Lease shall bear interest at the rate provided under Florida law for Judgments. Said interest shall begin to accrue upon default as set forth in section 19.

C. In the event of judicial or mutual termination of this Lease, Lessee shall provide Lessor with a Release and Surrender Agreement with two witnesses, in recordable form, to remove the Memorandum of Lease as a cloud on the title within seven (7) days of written demand, therefore if a Memorandum has been recorded. If Lessee raises defenses and desires to maintain the Memorandum of Lease as a recorded Notice on the Premises, then Lessee shall pay a $25,000 security deposit into the court registry and continue to pay all expenses including rent as it becomes due.

D. In the event that the Lessee fails to maintain the Premises in a condition free of federal, state, county or city code violations, the Lessor shall have the right, but not the obligation, to enter onto the Premises and repair or replace any items not in code compliance.

Thereafter, the actual cost, plus five (5%) percent administrative charge shall be additional rent, to be paid by the Lessee upon the next time that rent is due hereunder.

Section 33. Contractual Authority

By signing this Contract the Lessee swears or affirms, under penalty of perjury, that this is a valid act of the Lessee, and that no later claim shall be made by the Lessee that the Contract is invalid or an *ultra vires* act, by reason of a failure to have the proper authority to execute the Contract. In the event that a court of competent jurisdiction later determines that the Contract is or would be null and void for failure of the signatory to have proper or complete authority, this Contract shall nonetheless be deemed valid under the theory of "apparent authority," or in the sole alternative of the City, shall be deemed to be the act of the signatory, as an individual, who shall be fully responsible for its complete performance.

Section 34. Sovereign Immunity

Nothing contained herein shall be construed or interpreted as a waiver of the sovereign immunity liability limits established under chapter 768.20 Florida Statutes as amended.

Section 35. Exhibits

The following Exhibits are attached to and made a part of this Contract:

Exhibit "A" – "Sketch Defining Leased Premises"
Exhibit "B" - "Insurance and Indemnification"

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals of the date shown below.

WITNESSES:

_____
(Signature)

_____
(Signature)

STUART MAIN STREET ASSOCIATION, INC.
a Florida not-for-profit corporation

_____
(Signature)

_____
(Printed Name & Title)

CITY OF STUART, a Florida municipal corporation

ATTEST:

_____
MARY R. KINDEL
City Clerk

_____
REBECCA S. BRUNER
Mayor

APPROVED AS TO FORM
and CORRECTNESS

_____
MICHAEL J. MORTELL, ESQ.
City Attorney


Attachment A
N
W
E
S
SW DIXIE HWY
SW FLAGLER AVE