

Lease Agreement

September 23, 2008

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P BK 128 PG 608  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

**1. Parties:** THIS INDENTURE OF LEASE AND AGREEMENT, dated as of the 15 day of September, 2008, between Stanley Thorne, parties of the first part, hereinafter jointly called LESSOR, Rose Kalisak and Jose (Jesse) Munoz, party of the second part, hereinafter called LESSEE.

**2. Consideration: WITNESSETH:** That each of the aforesaid acknowledges the receipt of a valuable consideration from the other and that they and each of them act herein in further consideration of the engagements of the other as herein stated.

**3. Premises:** That LESSOR has and does hereby grant, demise and lease unto the said LESSEE the following described premises situated in the City of Southaven, County of DeSoto and State of Mississippi, to-wit.

**Land and improvements situated on the south line of First Commercial Drive together with the approximately 9600 sq. ft. of industrial building situated thereon. The same being municipally known as 2150 First Commercial Drive, Southaven, MS**

**4. Term: TO HAVE AND TO HOLD** the above described premises unto the LESSEE for the period of sixty (60) months commencing on the first day of October 2008 and ending on the 30st day of September, 2013.

**5. Rental:** LESSEE hereby covenants and agrees to pay to LESSOR as rent for the aforesaid premises the sum of **\$240,000.00 payable in advance in sixty (60) monthly installments in amount of (\$4000.00) Four Thousand Dollars each.**

The first installment shall due and payable upon October 1<sup>st</sup>, 2008 and the next installment shall be due and payable on or before the first day of November, 2008, with one on the first day of each succeeding month thereafter throughout the term of this lease. See "Security Deposit" in paragraph 52.

All rentals due under this Lease shall be payable at **P.O. Box 772074, Memphis TN 38177**, or such other address as Lessor may direct from time to time, to the order of LESSOR or their successors or assigns.

It is understood and agreed that the rental herein above provided is intended to be a net rental and is to be paid to the LESSOR without deductions for any expenses incurred by LESSEE during the term of said lease. Rental payments shall be without any setoff, abatement, deduction, or other reduction whatsoever. In the event that any payment is past seven (7) days late, LESSEE shall owe LESSOR a late fee of five percent (5%) of the amount of the rental payment, and after thirty (30) days, LESSEE shall owe LESSOR (a) interest on such payment from the date the payment was first due until paid at the rate of the lesser of eighteen percent (18%) per annum or (a) the maximum rate of interest allowable under the laws of the State of Mississippi at such time. Late payment may create unacceptable economic risks or consequences, and these charges are stipulated to

Stanley Thorne  
P.O. Box 876  
Southaven 38671

be reasonable. The assessment of a late fee or interest on late payments shall not constitute a waiver of any breach by LESSEE of this Lease resulting therefrom.

**6: Headings:** Any headings preceding the text of the several paragraphs or subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this lease nor shall they affect its meaning, construction or effect.

**7. Real Estate Taxes:** Real Estate taxes are to be paid by the Lessor.

**8. Proof of Payment:** The burden of proof of payment of rent in case of controversy shall be upon the LESSEE. All rent agreed to be paid under this lease shall be paid in lawful money of the United States of America.

**9. Lien on Leasehold, etc.:** A first lien is hereby expressly reserved by the LESSOR and granted by the LESSEE upon the terms of this lease and upon all interest of the LESSEE in this leasehold for the payment of rent and also for the satisfaction of any cause of action which may accrue to the LESSOR by the provisions of this instrument. A first lien is also expressly reserved by the LESSOR and granted by the LESSEE upon all buildings, improvements, merchandise, office equipment, store fixtures, water fixtures and gas fixtures and all other fixtures erected or put in place or that may be erected or put in place upon the premises by or through the LESSEE or other occupants for the payment of rent and also for the satisfaction of any causes of action which may accrue to the LESSOR by the provisions of this instrument.

**10. Quiet Possession:** The LESSOR hereby covenants that if LESSEE shall keep and perform all of the covenants of this lease on the part of LESSEE to be performed LESSOR will guarantee to LESSEE the quiet, peaceful and uninterrupted possession of the said premises, subject to all restrictions, encumbrances and easements, whether or not of record, including but not limited to (a) building restrictions and zoning regulations, (b) any state of facts which an accurate survey would show, (c) any mortgage, deed of trust or lien of record, and (d) all easements, covenants and restrictions affecting the leased premises..

**11. Lawful and Moral Use:** The LESSEE hereby further covenants that the premises and all buildings and improvements thereon shall, during the term of this lease, be used only and exclusively for lawful and moral purposes, and no part of the premises or improvements thereon shall be used in any manner whatsoever for any purposes in violation of the laws of the United States, the State of Mississippi, or the ordinances and laws of the County of DeSoto and City of Southaven.

**12. Protection from Violations:** The LESSEE hereby covenants to save and hold the LESSOR harmless from LESSEE's violations of the laws of the United States, of the State of Mississippi, of the County of DeSoto, and the ordinances and laws of the City of Southaven.

**13. Waste:** The LESSEE hereby further covenants not to commit or permit to be committed any waste whatsoever.

**14. Nuisances:** The LESSEE hereby further covenants not to create or allow any nuisance to exist on said premises, and to abate any nuisance that may arise promptly and

free of expense to LESSOR. **15. Invalidation of Insurance:** The LESSEE hereby further covenants not to suffer anything to be or remain upon or about the premises which will invalidate any policy of insurance which LESSOR may now or hereafter have upon said building.

**16: Insurance.** Property Insurance shall be maintained by the lessor for the Lessor's benefit.. Tenant shall also maintain any other Insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises.

**17: Liability Insurance.** LESSEE, at its own sole cost and expense, shall, throughout the entire term of this Lease, procure and maintain comprehensive general public liability insurance in the amount of not less than One Million (\$1,000,000) against claims for bodily injury, death or property damage occurring upon, in or about the leased premises., such insurance with not more than Five Thousand Dollars (\$5,000) deductible. Such policies of insurance shall name LESSOR as an additional insured, and such protection shall continue at not less than said limits until required to be changed by LESSOR in writing by reason of changed economic conditions making such protection inadequate.

No act, omission, or negligence of LESSEE, or anyone acting for LESSEE, which might otherwise result in a forfeiture of such insurance or any part thereof, shall in any way affect the validity and enforceability of such insurance insofar as LESSOR and LESSOR's Mortgagee, if any, are concerned;

**18: Advertising:** No sign of any type will be placed on any portion of the exterior of the Leased premises without the express written consent of the LESSOR and if so consented to, LESSEE agrees to obtain prior written approval of the LESSOR regarding the size, general design, and placement of said sign which will be used exclusively by LESSEE to advertise LESSEE's own business. Such approval by LESSOR will not be unreasonably withheld. In no event however, shall LESSEE paint the exterior walls. Upon the expiration of this lease or any extension thereof, LESSEE, at LESSEE's expense shall remove all signs placed or erected on the said premises during the term of the lease and repair all damage to the leased premises due to the erection and subsequent removal of same.

**19. Alterations:** The LESSEE hereby further covenants not to make any changes, alterations, or additions within or about the said building or premises without first obtaining the written consent of the LESSOR and in no event to do anything that shall weaken the building or structure now on or that may hereafter be erected on the premises. Any alterations, physical additions or improvements to the leased premises made by LESSEE shall at once become the property of LESSOR and shall be surrendered to LESSOR upon the termination of this Lease; provided that LESSOR, at its option, may require LESSEE to remove any physical additions and/or repair any alterations in order to restore the leased premises to the condition existing at the time LESSEE took possession, all costs of removal and/or alterations to be borne by LESSEE

**20. Damages, Accidents, Subrogation, Insurance, etc.:** The LESSEE hereby covenants to keep and to hold the LESSOR harmless from any expense or liability for loss or damages to persons, property, or things, both real and asserted, accruing from any cause or causes in or connected with or about the within leased premises, or on the sidewalk, street or alley areas adjacent thereto, during the term of this lease. LESSOR and LESSEE mutually agree, to the extent permitted by their respective insurance carriers, to waive any right of subrogation which they may have against the other for any losses paid to them on policy or policies carried on the property to the extent permitted by the terms of such policy or policies.

**21. Costs of Collection:** The LESSEE hereby covenants to pay all costs of collection, including reasonable attorney fees, if all or any part of the rent reserved herein is collected after maturity with the aid of an attorney, also to pay all court costs and reasonable attorney fees in the event it becomes necessary for the LESSOR to employ an attorney to force the LESSEE to comply with any of the covenants, obligations, or conditions imposed by the lease upon LESSEE.

**22. Insolvency, etc., of Lessee:** The LESSEE hereby further covenants that in the event of the insolvency or bankruptcy of the LESSEE, or the filing of any petition under the bankruptcy statute, voluntarily or involuntarily and whether or not resulting in an adjudication in bankruptcy, or in the event of a partial or general assignment for the benefit of a creditor, at any time thereafter the LESSOR shall have the right to terminate this lease upon giving written notice thirty days in advance.

**23. Delivery at end of Lease:** The LESSEE hereby further covenants and agrees to deliver up to the said LESSOR, or LESSOR's agents or assigns, the said premises at the expiration of this lease in good order and repair, and to make good all damage to said premises, ordinary wear and tear excepted. The said delivery to be made on the last day of this lease, and in the event of failure of LESSEE to make such delivery of said premises on the last day of this lease, then it will be optional with LESSOR to hold the LESSEE for any damages that the said LESSOR, or LESSOR's heirs or assigns, may have sustained due to the failure of the said LESSEE to make proper delivery of premises, together with 150% the amount of rent, until all the premises, with the keys to same cleared of all persons and property not belonging to same be returned to the LESSOR, or LESSOR's heirs or assigns. No demand or notice of such delivery shall be necessary.

**24. Right of entry, etc.:** The LESSOR reserves the right during the term of this lease, to enter said premises at reasonable hours to show the same to other persons who may be interested in renting or buying the property, and for the purpose of inspecting the premises and to make such repairs as LESSOR may deem necessary for the protection and preservation of the said building and premises; but LESSOR is not bound to make any repairs whatever nor to be held liable for any damage in consequence of leaks, or for the stoppage of water, sewer, gas or drain pipes by reason of freezing or any other cause or obstructions, nor for any other defects about the building and premises, the LESSEE having examined the same and being satisfied therewith, but should such leaks (except for roof leaks not caused by LESSEE), obstructions, freezing, stoppages, or other defects about the building and premises occur during the term of this lease, or while LESSEE is occupying the premises, then the LESSEE shall remedy the same promptly at the LESSEE's expense unless the LESSOR by written agreement undertakes to do the same (except as otherwise herein provided). Except where delay of inspection of the premises

could cause additional damage to property by delaying necessary repairs, no less than 48 hours notice shall be give LESSEE prior to inspection.

**25. Repairs:** The LESSOR, at LESSOR'S expense, is to make necessary repairs to roof, roof structure, exterior walls (other than doors and glass) and foundations, after notice from LESSEE of the need for such repairs, unless repairs are occasioned by use or neglect of LESSEE, in which event LESSEE, at LESSEE's expense, shall promptly make such repairs without cost to LESSOR. In no event, however, shall LESSOR be held liable for any damage to LESSEE's merchandise in consequence of leaks or water damage. LESSEE, as a material part of the consideration to be rendered to LESSOR, hereby waives all claims against LESSOR for damages to goods, wares and merchandise in, upon or about said premises and for injuries to LESSEE, his agents, or third persons in or about said premises from any cause arising at any time, including, without limiting the generality of the foregoing, damages arising from acts or omissions of other tenants of the building of which the demised premises are a part and from the failure of either party to make repairs.

**26. Demand and Notice:** In the event of the failure of the LESSEE to pay the aforementioned rental installments as herein stipulated, or in the event that the LESSEE should breach any of the covenants herein imposed upon said LESSEE by the terms and conditions of this lease, the LESSOR may immediately at the LESSOR's option, declare this lease null and void, and the LESSEE herein specifically waives the demand or notice of non-payment of rent as a condition precedent to the LESSOR exercising said option. The LESSOR herein is under no obligation whatsoever to notify the LESSEE of his intention to cancel this lease prior to actual cancellation of the same.

**27. LESSOR's Signs:** LESSOR may at any time within six (6) months prior to the expiration of said lease, affix to any part of the within leased building and premises a notice for rent of same, and LESSOR may at any time during the term of this Lease, affix to any part of the within leased building and premises a notice for sale of the property, and may keep such notices affixed without hindrance or molestation.

**28. Default of Rent, etc.:** All covenants and agreements herein made and obligations assumed are to be construed also as conditions and these presents are upon the express condition that if LESSEE should fail to pay when due any one of the aforesaid installments of rent, or should fail to perform or observe any of the covenants, agreements or obligations herein made or assumed by said LESSEE, then and thenceforth, in any of said events, this lease may be forfeited and thereby become null and void at the option of the LESSOR, and said LESSOR may immediately, or at any time after the breach of any of said covenants, re-enter the said premises and building, or any part thereof in the name of the whole, and repossess and have the same as of LESSOR'S former estate and remove therefrom all goods and chattels not thereto properly belonging, and expel said LESSEE and all other persons who may be in possession of said premises and building, an that, to, without demand or notice.

**29. Right to Terminate Not Exclusive:** The right of the LESSOR to terminate this Lease as herein set forth is in addition to and not in exhaustion of such other rights that the LESSOR has or causes of action that may accrue to the LESSOR because of the LESSEE's failure to fulfill, perform or observe the obligations, agreements or covenants of this lease, and the exercise or pursuit by the LESSOR of any of the rights or causes of action accruing hereunder shall not be in exhaustion of such other rights or causes of action that the LESSOR might otherwise have.

**30. Subletting; Assignment:** The LESSEE may sublet or assign all or any part of the building or premises to any party or parties for any part of the term or all of the term of this Lease with the LESSOR's prior written consent. In the event LESSOR consents to any subletting or assignment of this Lease, such consent shall not relieve the LESSEE of any of the covenants, agreements and obligations imposed upon the LESSEE in this Lease. LESSOR shall not unreasonably withhold consent.

The LESSEE agrees that if, with the permission in writing of LESSOR, LESSEE shall vacate or decide at any time during the term of this lease or any renewal thereof, to vacate all or a portion of the herein demised premises, prior to the expiration of this lease, or any renewal hereof, LESSEE will not cause or allow any other agent to represent LESSEE in any sub-letting or re-letting of all or a portion of the demised premises other than Tri-State Realty, and that should LESSEE do so, or attempt to do so, the LESSOR may remove any signs that may be placed on or about the demised premises by such other agent without any liability to LESSEE or said Agent, the LESSEE assuming all responsibility and liability for such action. It is further agreed that AGENT shall have the exclusive right to act as Agent of the LESSEE for such subletting and shall be entitled to the usual commission for sub-letting or re-letting and shall be entitled to the usual commission for obtaining tenants regardless of whether such sub-letting is accomplished by Tri-State Realty any other broker or by LESSEE directly.

**31. Destruction by Fire, etc.:** Should the building upon the demised premises be totally destroyed by fire or other causes, or so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days from the date of the fire, or other damage, this lease shall terminate and the LESSEE shall be allowed an abatement of rent from the date of such damage or destruction. However, If the damage is such that rebuilding or repairs can be completed within one hundred eighty (180) days, the LESSOR, at LESSOR's option, and if LESSOR so elects, agrees to make such repairs with reasonable promptness and dispatch, but only to the extent of insurance proceeds available therefor, and to allow LESSEE an abatement in the rent for such time as the building is untenable, and the LESSEE covenants and agrees that the terms of this lease shall not be otherwise affected..

If the LESSOR elects not to make such repairs, this lease shall terminate and the LESSEE shall be allowed abatement from the date of such damage or destruction.

**32. Renewal:** This lease may not be renewed, or the term thereof extended, except by agreement in writing signed by both LESSOR and LESSEE. Should LESSEE hold over beyond the term of this lease, and should the LESSOR accept from LESSEE any rent for any period of time after such termination at the option of LESSOR, the rent shall increase as provided in Section 23 of this Lease, but it shall not be deemed a renewal or extension of the term of this Lease, but only rent for tenancy at will of the LESSOR for the period

of time for which such additional rent beyond the term is paid to and accepted by the LESSOR.

**33. Waiver of Breach:** It is hereby covenanted and agreed that no waiver of a breach of any of the covenants of this lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

**34. Run to Heirs, etc.:** It is hereby covenanted and agreed between the parties hereto that all covenants, conditions, agreements and undertakings in this lease contained shall extend to and be binding on the respective heirs, executors, administrators, successors and assigns of the respective parties hereto the same as if they were in every case named and expressed, also that the terms "LESSOR" and "LESSEE" shall be construed in the singular or plural number according as they respectively represent one or more than one person.

**35. Delivery of Possession:** LESSEE agrees that if the LESSOR is not able to deliver possession of the premises as herein provided, the LESSOR shall not be liable for any damages to LESSEE for such failure, but LESSOR agrees to use due diligence to obtain possession for the LESSEE at the earliest possible date, and an abatement of rent shall be allowed for such time as LESSEE may be deprived of possession of said premises.

**36. Lessee's Additional Maintenance:** (a) LESSEE covenants and agrees that LESSEE will maintain the premises in good condition throughout this full term of lease and will not allow said premises to deteriorate beyond normal wear and tear, it being expressly agreed and understood that, except as provided in subsection (b) hereof, the LESSEE, having examined said premises prior to occupancy, and being satisfied therewith, acknowledges that said building is in good condition, and said LESSEE covenants and agrees to maintain same in a good state of repair throughout the term of this lease, paying all upkeep, repairs, and the expense of maintaining same, and to return same at the end of lease to LESSOR in good condition. It is further agreed and understood that all other repairs and maintenance to the property herein leased are to be made by the LESSEE and all labor and materials used by it in making any repairs or permitted alterations will be paid for promptly by LESSEE and in no event shall any mechanics' or furnishers' liens be permitted to be fixed upon the leasehold interest. Such repairs and maintenance shall include, but not be limited to, the parking lot, driveways, and sidewalks including snow and ice removal, the sewer, water pipes, and other matters related to plumbing, the electrical wiring, the air conditioning system, the heating system, the security system, all other items of maintenance not specifically delegated to Landlord under this Lease. LESSEE'S responsibility for repairs shall exclude those to be made by LESSOR as stated in Section 23 of this Lease.

(b) LESSEE or LESSEE'S agents shall have access to the property prior to occupancy for the purpose of inspecting the property for determining if there are any needed repairs. LESSOR may at its option make any such repairs; provided that if LESSOR elects not to make such repairs, LESSEE shall have a period of five (5) days from the date of LESSOR'S election to not make repairs to either (a) terminate this Lease, or (b) accept the premises in its condition without such repairs, in which event LESSEE shall not be responsible for such repairs during the term of this Lease. If LESSEE does not provide written notice to LESSOR of LESSEE'S decision to terminate this Lease within said five (5) day period, LESSEE shall be conclusively presumed to have elected to have accepted the premises.

**37. Going Business:** The LESSEE hereby further covenants that a going business shall be conducted in the within leased premises throughout the full term of this lease. In the event a going business is not operated on the aforementioned premises for a period of fourteen consecutive days, such shall be an event of default under this Lease, and LESSOR or his agents may, at LESSOR'S option, terminate this Lease, or exercise any of LESSOR's other remedies at law or in equity.

**38. Utilities and Assessments:** All heat, electric current, gas or other utilities used on or about the leased premises are to be paid for promptly by the LESSEE. It being the express understanding and agreement that the LESSEE is to promptly pay all utilities, including all electricity, water, light and gas taxes or rates assessed against the within leased premises during the aforesaid term. LESSEE further agrees to promptly pay all sewer or garbage fees or assessments, which may be assessed, against the said leased premises.

**39. Insects, Rodents:** LESSEE covenants that he will, at his own expense, take such steps as shall be reasonably necessary or required by law, to keep the demised premises free of roaches, rodents, insects, and other pests, and that LESSOR shall not be liable for any damage caused thereby.

**40. Display of Merchandise:** LESSEE agrees not to display merchandise on sidewalks or driveways of the within leased premises, unless LESSOR gives LESSEE written.

**41. Robbery or Burglary:** LESSEE shall not be responsible for any and all damage to said leased premises resulting from robbery or burglary. LESSOR covenants that should the doors, roof, window frames, glass or exterior be damaged by persons breaking, or attempting to break into the demised premises, or by vandals any and all damage to said premises caused thereby will immediately be repaired by LESSOR at his expense.

**42. Eminent Domain:** If the whole or any part of the within leased premises shall be taken by any public authority under the power of eminent domain, all damages awarded for such taking shall belong to and be the property of LESSOR, provided, however, that LESSOR shall not be entitled to any separate award which may be made to LESSEE for the cost of removal of stock and fixtures.

In the event the whole or any part of the within leased premises are condemned or acquired under the threat of condemnation by any governmental authority, it is agreed and understood between the parties hereto that said LESSEE shall have no claim or right of action against said LESSOR for any loss or damages sustained by LESSEE, both real or asserted, accruing from or connected with the condemnation of the within leased premises.

If at any time during the term of this Lease a taking of all or substantially all of the leased premises shall occur, such taking shall be deemed to have caused this Lease to terminate and expire on the date of such taking. The rent required to be paid by LESSEE under this Lease shall be paid up to the date of such taking and LESSEE shall, in all other respects, keep, observe or perform all the terms, covenants, agreements, provisions, conditions and limitations of this Lease on LESSEE's part to be kept, observed or performed, up to the date of such taking. For purposes of this Section "substantially all of the leased premises" shall be deemed to have been taken if the portion of the leased premises not so

taken cannot, in LESSOR's reasonable judgment, be so repaired or reconstructed as to constitute a complete structure capable of being used for the business of LESSEE.

If, at any time during the term of this Lease, less than substantially all of the leased premises shall be taken as aforesaid, this Lease and the term hereof shall continue in full force and effect. In the event of any such taking referred to above, LESSEE shall give prompt notice thereof to LESSOR and LESSOR shall proceed, to the extent of condemnation proceeds available, to perform any necessary repairs, restorations, alterations or replacements.

All awards payable as a result of any such taking shall be paid (after deducting therefrom Landlord's expenses of collection, including, but not limited to, attorneys' fees and experts' fees) to Landlord.

In the event of any such partial taking, the rent and other charges payable hereunder which are fairly allocable to the portion of the leased premises taken shall be apportioned and adjusted as of the date of taking, and the rent which would otherwise have been payable for the remainder of the term shall be equitably reduced as of the date of taking to reflect the decrease in value of the leased premises to LESSEE by reason of such taking; provided, however, that the rent shall not thereby be reduced below the then fair market net rental value of the leased premises, following the taking.

**43. Kind of Business:** LESSEE will use the premises for softball coaching facility and dance studio or any other lawful use approved by the LESSOR, whose consent will not be unreasonably withheld..

**44. Additional Restrictions:**

a. LESSEE agrees not to store any merchandise, crates, or material of any type outside of the leased building. LESSEE further agrees not to burn trash or other substances on or within the leased premises. All trash must be kept in metal containers with metal tops which must be kept painted and located in the rear service area of the building herein leased, the location must be approved by LESSOR.

b. LESSEE covenants that he will not use or permit to be used on the demised premises any hand trucks; dollies and/or any other wheeled vehicles unless they are equipped with cushioned tires. Nor will LESSEE place any weights in any portion of the demised premises beyond the safe carrying capacity of the structure.

c. LESSEE shall not cause or permit to exist on the leased premises, as a result of an intentional or unintentional act or omission on its part, any "Toxic Material," "Hazardous Substance, or hazardous waste of any nature whatsoever ("Hazardous Materials"), and shall not cause or permit any release, spill, leak, emission or dumping of any Hazardous Materials onto any adjacent land or onto the land or into the waters of the State of Mississippi, where damage may result to the lands, waters, fish, wildlife, shellfish, biota, air, and other resources, managed, held in trust, or otherwise controlled by the State of Mississippi, unless said release spill, leak, etc., is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal or state governmental authorities.

LESSEE shall indemnify, defend (by counsel acceptable to LESSOR), protect and hold harmless LESSOR, and each of LESSOR's employees, agents, attorneys, successors and

assigns, from and against any and all claims, liabilities, penalties, fines, judgments, forfeitures, losses (including, without limitation, diminution in the value of the leased premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the leased premises), costs, or expenses (including attorneys' fees, consultant fees, and expert fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by

(a) the presence in, on, under, or about the leased premises, or any discharge or release in or from the leased premises, of any Hazardous Materials or LESSEE's use, analysis, storage, transportation, disposal, release, threatened release, discharge, or generation of Hazardous Materials to, in, on, under, about, or from the leased premises, arising out of or resulting from LESSEE's use or occupancy of the leased premises, or

(b) LESSEE's failure to comply with any law or regulation governing Hazardous Materials. LESSEE's obligations under this section shall include, without limitation, and whether foreseeable or unforeseeable, any and all costs incurred in connection with any investigation of site conditions, and any and all costs of any required or necessary repair, cleanup, detoxification, or decontamination of the leased premises, (including, without limitation, the soil and ground water on or under the leased premises) and the preparation and implementation of any closure, remedial action, or other required plans in connection therewith. LESSEE's obligations under this section shall survive the expiration or earlier termination of the term of the Lease. For purposes of the release and indemnity provisions hereof, any acts or omissions of LESSEE, or by employees, agents, assignees, contractors, or subcontractors of LESSEE or others acting for or on behalf of LESSEE (whether or not they are negligent, intentional, willful, or unlawful), shall be strictly attributable to LESSEE.

**45. Licenses, Permits, Zoning:** It is understood and agreed that the LESSOR does not warrant or undertake that the LESSEE shall be able to obtain a permit under any Regulation or Zoning Ordinance for such use as LESSEE intends to make of the said premises, and nothing in this lease contained shall obligate the LESSOR to assist LESSEE in obtaining said permit; the LESSEE further agrees that in the event a permit cannot be obtained by LESSEE under any Regulation or Zoning Ordinance this lease shall not terminate without LESSOR's consent, and the LESSEE shall use the premises only in a manner permitted under such Regulation or Zoning Ordinance.

**46. Limitation of LESSOR's Liabilities; Computation of Time Periods:** LESSOR shall not be liable or responsible to LESSEE for any inconvenience or any loss or damage whether to LESSEE or LESSEE's property or to any other person, or his property, occasioned by any matter either: (a) which is beyond the control of LESSOR, or (b) which may arise through or in any way be connected with repair of any part of the demised premises or failure to make such repairs or from any other cause whatsoever unless caused solely by LESSOR's failure to effect repairs, which are its responsibility, within a reasonable time following written notice by LESSEE to LESSOR of need of same. Notwithstanding any other provision of this Lease, the parties agree that the liability of LESSOR shall at all times be limited to LESSOR's equity in the leased premises.

Whenever a period of time is prescribed in this lease for action to be taken by LESSOR, LESSOR shall not be liable or responsible for, and therefore shall be excluded from the computation of any such period of time, any delays due to strikes, riots, Acts of God, shortage of labor or materials, inclement weather conditions, governmental laws,

regulations, or restrictions or any other causes of any kind whatsoever which are beyond the control of LESSOR.

**47. Where Notice To Be Directed:** Where, under the terms of this Lease, notice is required to be given to a party to this Lease. A certified or registered mail return receipt requested letter and addressed to the LESSEE at: **2150 First Commercial Dr. West**, or to the LESSOR at: **P.O. 876, Southaven MS 38671**, with copies to **Tri-State Realty, P.O. Box 772074, Memphis, Tennessee, 38177**, shall constitute evidence of notice being given.. Notice required under the terms of this Lease shall be deemed to be delivered whether actually received or not when deposited in the United States Mail, postage prepaid, certified or registered mail addressed to the parties at said respective addresses.

**48. Liability of Agent:** It is agreed that the Agent shall not be personally liable in any way hereunder, particularly for the lack of authority to act as LESSOR's agent, any and all such liability being hereby quit claimed and waived by LESSEE, except for Agent's willful malfeasance.

**49. Agency and Commission:** This lease was negotiated by Tri-State Realty, hereinafter known as AGENT acting as Agents for the LESSOR, and the LESSOR for itself and its successors in title, affiliates, and assigns agrees as follows: to pay AGENT a real estate commission as follows: a real estate commission of the first month rent and 5% of each months rent collected thereafter including all renewals, extensions, and late charges along with any interest that may be collected. First month's commission shall be payable upon collection of first month's rent by tenant and subsequent monthly commission shall be payable upon collection .

As an additional consideration, should LESSOR, its successors in title, affiliates, or assigns fail to pay said commissions as herein stipulated to said Agent or his successors or assigns, then and in which event, in addition to the commissions then due, LESSOR and its successors in title, affiliates or assigns agree to pay all cost of collection including all court cost and reasonable attorney's fees and expenses incurred by said Agent in connection with the collection of said commissions due from LESSOR in the event it becomes necessary for Agent, his successors or assigns to employ an attorney to collect same.

**50. Other Considerations:** It is expressly understood and agreed by and between the parties hereto that this lease and any riders attached hereto forming a part hereof set forth all promises, agreements, conditions or understandings, either oral or written, between LESSOR or his agent and LESSEE relative to the leased premises, and that there are no other promises, agreements, conditions or understandings, either oral or written, between them another than are herein set forth. It is further understood and agreed that no subsequent alteration, amendment, change or addition to this lease shall be binding upon LESSOR or LESSEE unless reduced to writing and signed by them and by direct reference therein made a part hereof. It is further understood agreed that **AGENT**, as agent for the LESSOR, assumes no responsibility whatsoever to the LESSEE as to any covenants contained within this lease or to the condition of the within leased premises.

**51. Severability.** Each and every covenant and agreement contained herein is or shall be construed to be a separate and independent covenant and agreement, and the breach of any covenant or agreement by either party shall not discharge, or relieve the other party from its obligations hereunder. If any term or provision hereof, or the application thereof

to any such covenant to any person or circumstances, shall be invalid and unenforceable, the remainder of this lease, or the application of such term or provision to person or circumstances other than those as to which it is invalid or enforceable, shall not be affected thereby, and each term and provision shall be valid and enforced to the extent provided by law.

**52. Security Deposit.** LESSEE agrees to deposit with LESSOR at time of signing of this lease, the sum of **Four Thousand Five Hundred Dollars (\$4,000.00)** which sum shall be held by LESSOR without obligation for interest, as security for the performance of LESSEE of LESSEE's covenants and obligations under this Lease, it being expressly understood and agreed that such deposit is not an advance rental deposit or a measure of LESSOR's damages in case of LESSEE's default. Upon the occurrence of any event of default by LESSEE, LESSOR may from time to time, without prejudice to any other remedy provided herein or provided by law, use such fund to the extent necessary to make good any arrears of rent or other payments due LESSOR hereunder, and to any damage, injury, expense, or liability caused by such event of default; and LESSEE shall pay to LESSOR on demand the amount so applied in order to restore the security deposit to its original amount. Although the security deposit shall be deemed to be the property of LESSOR, any remaining balance shall be returned by LESSOR to LESSEE at such time after termination of this Lease that all obligations under this Lease have been fulfilled.

**53. Intention of Parties, Construction of Lease.** It is the intention of the parties that this Lease of the leased premises shall be absolutely net to the so that this Lease shall yield to the LESSOR the net rent specified herein during the term of this Lease, and that LESSEE, rather than LESSOR, should bear all costs, expenses, liabilities and risks of loss arising in connection with the leased premises LESSOR (except for LESSOR's obligations under Section 25). Each and every provision of this Lease shall be construed so as to accomplish this intent.

**54. Subordination of Lease.** The LESSEE hereby agrees to subordinate this Lease to any mortgage, deed of trust or encumbrance which the LESSOR may have placed, or may hereafter place on the leased premises. LESSEE agrees to execute on demand any reasonable instrument which may be deemed necessary or desirable to render (or to confirm) such mortgage, deed of trust or encumbrance, whenever made, superior and prior to this Lease.

**55. Estoppel Certificates.** LESSEE agrees, from time to time and within ten (10) days after request by LESSOR, to deliver to LESSOR, or LESSOR's designee, an estoppel certificate stating that this Lease is in full force and effect, the date to which rent has been paid, the unexpired term of this Lease and such other matters pertaining to this Lease as may be reasonably requested by LESSOR. It is understood and agreed that LESSEE's obligation to furnish such estoppel certificates in a timely fashion is a material inducement for LESSOR's execution of this Lease.

**56. Time of the Essence.** Time is of the essence as to all of the duties and obligations of LESSEE under this Lease.

IN TESTIMONY WHEREOF the above named LESSOR and the above named LESSEE have executed this and two other original instruments of identical tenor and date, on the day and year first above set forth.

LESSOR: Stanley Thorne Date 9/22/2008  
Stanley Thorne, owner

Address / Phone \_\_\_\_\_ (901) 413-7599

LESSEE: Rose Kalisak, Jose (Jesse) Munoz

Rosemary V Kalisak  
Rosemary Kalisak Date 9/23/08

Address/Phone 642 Valley Springs Dr. Southaven MS 38671 (901) 849-3563

Jose Munoz Date 9/23/08  
Jose (Jesse) Munoz

Address / Phone 510 Key Rd. Collierville, TN, 38017 / (901) 367-2777

PREPARED BY

TRI STATE REALTY

1613 MAIN STREET

SOUTHAVEN, MS. 38671

901-767-4220

STATE OF MISSISSIPPI  
COUNTY OF DESOTO

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared **Rose Kalisak**, to me known or proved to me on the basis of satisfactory evidence to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained.



WITNESS my hand and Notarial Seal at office this 23 day of Sept, 2008

Rosemary V Kalisak  
Notary Public  
Michelle Dowdy

My commission expires: 2/22/11

STATE OF MISSISSIPPI  
COUNTY OF DESOTO

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared **Jose (Jesse) Munoz**, to me known or proved to me on the basis of satisfactory evidence to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained.



WITNESS my hand and Notarial Seal at office this 23 day of Sept., 2008

J. Munoz  
Notary Public  
Michelle Dowdy

My commission expires: 2/22/11

STATE OF MISSISSIPPI  
COUNTY OF DESOTO

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared **Stanley Thorne**, to me known or proved to me on the basis of satisfactory evidence to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained.

Witness my hand and seal, at office at office this 23 day of Sept, 2008.

Stanley Thorne  
Notary Public  
9/22/2008

My commission expires: