

MINUTES OF THE MEETING OF THE  
LOUISIANA STATE MUSEUM  
Irby/Finance Committee  
Monday, November 13, 2017  
11:00 a.m. – The Old U.S. Mint  
New Orleans, Louisiana

Members Present: Lee Felterman, Kevin Kelly, Lawrence Powell,  
Melissa Steiner, Madlyn Bagneris, Carolyn Morris,  
Anne Redd, Rosemary Upshaw Ewing and William  
Wilton.

Members Absent: Aleta Leckelt

Also Present: Bill Cody and Julia George Moore

LSM Staff Present: Rennie Buras, Yvonne Mack, Steven Maklansky,  
Maryann Miller and Bridgette Thibodeaux

A quorum was present.

**Call to Order**

Will Wilton called the meeting to order at 11:03 am.

**Motion to Adopt the Agenda**

Rosemary Upshaw Ewing moved to adopt the agenda. Seconded by Carolyn Morris, the motion was **unanimously approved**.

**Motion to Adopt the Minutes**

Lee Felterman moved to adopt the Irby Finance Committee meeting minutes from October 23, 2017. Kevin Kelly seconded the motion. Corrections were indicated regarding the spelling of Madlyn Bagneris' first name. With requested corrections, the motion was **unanimously approved**.

**Commercial Lease Process**

A presentation was made by Rennie Buras regarding the procedures and customs which OSM has used to govern commercial leases in the Lower Pontalba. He outlined the required items vs the customary processes. An outline of his presentation was provided as Exhibit A. Additional exhibits provided to the committee included: Exhibit B – the comprehensive plan; Exhibit C – criteria for consideration of applicants; Exhibit D - current lease information for each tenant (including dates of inception and expiration, lease options, etc.); Exhibit E – total revenue by tenant; Exhibit F – lease template; and Exhibit G – Sections 349 and 350, governing commercial leases.

Floor was opened for public comment at 11:38 a.m. Representatives for the following commercial tenants spoke: Jackie's, Violet's, Tabasco, Monty's, Photo Works (two representatives), and The Little Toy Shop. Discussions were primarily regarding small business success rates, comparable rents, request for the advertisements for rent to acknowledge the presence of current tenants, and requests that a decision/vote occur at a board meeting held in New Orleans (noting out of town meetings for future board meetings). Public comment was concluded at 11:53. A motion to defer any action on the commercial lease process was made by Rosemary Ewing. The motion was seconded by Carolyn Morris and was **unanimously approved**.

### **Tenant Requests**

The residential tenant (Ben Skillman) at 519 St. Ann St. 2<sup>nd</sup> Floor would like to change his co-tenant to Jim Bernhardt. Anne Redd made a motion to approve the new co-tenant and his motion was seconded by Kevin Kelly. The motion was **unanimously approved**.

The tenants at 539 St. Ann St. 2<sup>nd</sup> Floor requested a one month extension to their lease, prior to signing a new lease. Kevin Kelly made a motion to approve the request. The motion was seconded by Anne Redd. The motion was **unanimously approved**.

### **Old Business**

A question was posed regarding the status of the residential waiting list. Yvonne Mack provided an update that 807 Decatur St. 2<sup>nd</sup> Floor and 531 St. Ann St, 2<sup>nd</sup> Floor are being actively shown "as is" as these units do not require any major repairs. Thus far, there have been four applicants who have declined the apartment.

### **New Business**

Madlyn Bagneris provided an update on her daughter's good progress and thanked everyone for their continued support and prayers.

### **Adjournment**

Melissa Steiner moved to adjourn the meeting and the motion was seconded by Carolyn Morris. The meeting adjourned by unanimous vote at 12:20 p.m.

## **Pontalba Commercial Leases**

### **A. Commercial Lease Calendar**

Advertise	85- 90 days Before Commencement Date
Applications Received by Board	60 days Before Commencement Date (advertisement of meeting no more than 10 days before meeting)
Select new Lessee	30 days Before Commencement Date (requires 10 day notice of meeting by advertisement) (must be 1 month after Application received by Board)
Sign Lease	Commencement Date (traditional) (traditionally last day of the previous Lessee's term)

### **B. Significant Provisions/Regulations**

- a. **Term-** Negotiable and not defined by or limited by enabling statute. *Custom for most commercial spaces has been a 2 year term with two (2) two-year options to renew, except restaurants which have a 5 year terms with two (2) five-year options to renew. (Jackie's exception)*
- b. **Rent** - will consist of a base rent plus additional rent to be based on percentage of gross sales, or as determined by the Board. Actual rents will be determined according to location in the building, type of business, and extent of Lessee improvements. *(Comprehensive Plan, not statute)(Custom has been 8% of gross sales, less the monthly minimum base rent)*
- c. **LRS 25:349**, Conditions or Restrictions:
  - “(4) In making its decision the board shall determine all of the following:
    - (a) The financial qualifications of applicants.
    - (b) The compatibility of the proposed lease with the historic integrity, structure, and safety of the property, the relationship of the proposed commercial lease with other commercial leases on the property.
    - (c) The impact of the proposed lease on the historic character of the neighborhood in which the properties are located.
  - (5) The board shall fix terms and establish minimum rental fees as determined in the comprehensive usage plan.
  - (6) The board shall accept no applications from nor shall it approve any lease with any state official, board member or his spouse or child, or any person of which he is an officer, director, trustee, partner, or employee, or of which he has a

substantial personal economic interest, as distinguished from that of a general class or general group of persons, of which he may be reasonably expected to know. The provisions of this Paragraph are illustrative and not exclusive.

(7) All commercial leases approved by the board shall be reviewed by the attorney general and no lease shall be finally approved by the board unless approved by the **attorney general** as to form and legality.”

d. **Comprehensive Plan (adopted by Board)**, Important Conditions and Restrictions:

- i. Criteria for Applicants shall govern the eligibility of applicants for consideration for space in the Lower Pontalba
- ii. 1 Mile Rule, exception only by majority vote of board
- iii. Products or service must be compatible with the historic integrity, structure and safety of the property and that the business will not have a negative impact on the historic nature of the neighborhood.
- iv. Applicants must sign Letters of Intent for Improvements and Leases.
- v. Annual Audit

e. **Criteria for Applicants (adopted by Board pursuant to Comprehensive Plan)**, Important Conditions and Restrictions:

- i. Highlights
  - 1. Financial Suitability
  - 2. Merchandise Aggressively
  - 3. Board desires that products or services be unique, preferably with a local, New Orleans or Louisiana flavor.
  - 4. High quality merchandise. No t-shirts or articles of like quality are permitted. Original and professional workmanship preference.
  - 5. Only merchandise approved by Board can be offered for sale.
  - 6. 70% space must be for sales
  - 7. Tenant Association
  - 8. Board final arbiter

**C. Current Lessees and Rents Collected**

- a. See Excel documents

(See Next Page)

**D. Upcoming 2018 Expirations and Renewals**

a. Expirations

<b>Unit</b>	<b>Lessee</b>	<b>Date</b>
533 St. Ann (1210 sq. ft.)	Creole Delicacies	2/28/18 (1964)
513 St. Ann (1254 sq. ft.)	Little Toy Shop Too!	3/31/18 (1984)
525 St. Ann (1165 sq. ft.)	Jackie's	10/1/18 (2002)
537 St. Ann (1210 sq. ft.)	Tabasco	11/1/18 (2006)

b. Renewals

<b>Unit</b>	<b>Lessee</b>	<b>Date</b>
808 Chartres (974 sq. ft.)	Violet's	1/1/18; (2 <sup>nd</sup> renewal; 2yrs) (1996)
517 St. Ann (1316 sq. ft.)	Ma Sherie	2/1/18; (1 <sup>st</sup> renewal; 2 yrs.) (1997)
507 St. Ann (353 sq. ft.)	Artistic Heritage	3/1/18; (1 <sup>st</sup> renewal; 2 yrs) (2010)
547 St. Ann (2970 sq. ft.)	Stanley's	5/1/18; (2 <sup>nd</sup> renewal; 5 yrs) (2008)
809 Decatur (1078 sq. ft.)	Pro-Image Sports	6/1/18; (2 <sup>nd</sup> renewal; 2 yrs) (2008)
801 Decatur (2405 sq. ft.)	Monty's	10/1/18; (2 <sup>nd</sup> renewal; 5 yrs) (2000)

**LOUISIANA STATE MUSEUM  
BOARD OF DIRECTORS**

**COMPREHENSIVE PLAN OF USAGE  
FOR THE COMMERCIAL TENANTS OF THE  
LOWER PONTABLA BUILDING  
AND  
ALL OTHER MUSEUM BUILDINGS**

**This plan is governed by the following objectives:**

1. Insure that all relevant property is maintained and kept as an historical monument.
2. Insure that the property is managed in a businesslike manner utilizing recognized real estate management techniques.
3. Create maximum rental income.
4. Improve the physical condition of the property in the most cost-effective manner as determined by the Board.
5. Insure that the long-range future of the property will be guaranteed as a sound real estate investment.
6. Obtain a tenancy for the property that will be a credit to it and help enhance the interest in the Lower Pontalba Building and all other buildings of the Louisiana State Museum complex and its "tout ensemble".

**The plan is based on the following limiting conditions:**

1. The Board is desirous of improving the quality and income of each relevant Museum facility.
2. The Board will establish architectural, electrical, and mechanical standards for improvements to be made by the tenants.
3. Suitability of occupancy for commercial operations shall be determined by the Board of Directors of the Louisiana State Museum in accordance with the historical nature of the property and in conformity with all applicable laws and codes to which the state is subject.
4. Consideration must be given to the needs of the local and general public as well as visitors.
5. Consideration must be given to the effect of the occupancy on the "tout ensemble" of the area.

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**Comprehensive Plan of Usage**

6. La. R.S. 25:349 establishes procedures for leasing commercial space in Museum-controlled buildings.

**The plan is as follows:**

1. Available commercial space on the ground floor of the Lower Pontalba Building and in other Museum buildings may be leased to commercial tenants. Exterior space in the courtyard may also be available (not in all units).
2. The tenant's business may consist of food, non-food, and other types of commercial businesses.
3. Rent will consist of a base rent plus additional rent to be based on a percentage of gross sales, or as determined by the Board. Actual rents will be determined according to location in the building, type of business, and extent of tenant improvements.
4. In some buildings, a common area charge will be assessed, based on the actual cost of maintaining common areas, calculated on an annual basis and billed monthly.
5. Initial lease term will be negotiable, with options for additional terms, negotiable.
6. No space will be leased to an individual or company that owns, operates, or controls any other retail establishment within one (1) mile of the Lower Pontalba Building or other specified building, except that after receipt of written request from the prospective Tenant, the Board of Directors of the Louisiana State Museum may, by majority vote, grant an exception to such rule.
7. Applicants for space will be expected to demonstrate that the design of their improvements will be in keeping with the historic nature of the buildings. They must agree that the improvements will be done in accordance with plans submitted to and approved by the Museum Board.
8. Applicants must demonstrate to the Museum Board that their product or service is compatible with the historic integrity, structure and safety of the property and that the business will not have a negative impact on the historic nature of the neighborhood in which the property is located.
9. Tenants will be required to sign Letters of Intent for Improvements and Leases.
10. The Criteria for Applicants, copy of which is attached, shall govern the eligibility of applicants for consideration for space in the building.
11. Successful tenant will be required annually to submit a complete independent audit or certified financial statement of the business for each one-year period following the signing of the lease.

**LOUISIANA STATE MUSEUM  
LOWER PONTALBA BUILDING  
AND  
OTHER MUSEUM BUILDINGS**

**CRITERIA FOR APPLICANTS**

1. Applicants must demonstrate to the Museum Board that they have sufficient financial resources to pay for interior and exterior renovation of the space they propose to occupy and to carry on the business in an efficient manner, including payment of rents, adequate stocks of merchandise and adequate staff. Applicants will be required to provide financial statements satisfactory to the Museum Board, which will be a minimum of a current independently certified financial statement and/or audit.
2. Applicants must show the ability to merchandise aggressively and imaginatively their products or services, including necessary advertising and promotion.
3. The Museum Board desires that products or services be unique, preferably with a local, New Orleans or Louisiana flavor.
4. Merchandise must be of high quality. No t-shirts or articles of like quality will be permitted. Handicrafts of original design and professional workmanship will be given preference.
5. Applicants must agree that only merchandise which has been approved by the Museum Board will be offered for sale.
6. A minimum of 70% of the store area will be reserved for sales purposes.
7. Tenants will be required to become members of a merchant's association which will assess dues for advertising, publicity and other common purposes (optional in some buildings).
8. No applications may be received from any member of the Museum Board or from the spouse or child of a Board member or from any person or business of which a Board member is an officer, director, trustee, partner or employer of or which he or she has a substantial personal interest.
9. Applicants must demonstrate to the Museum Board that their product or service is compatible with the historic integrity, structure and safety of the property and that the business will not have a negative impact on the historic nature of the neighborhood in which the property is located.
10. The State Museum Board is final arbiter of all criteria.
11. Tenants will be required to provide an independent audit or certified financial statement of the business annually on the anniversary date of the lease.



**Commercial lease information**  
**Lower Pontalba**  
**November 2017**

Exhibit D

<b>Commercial Tenant</b>	<b>Original Lease</b>	<b>Current Commencement</b>	<b>Optional Lease Expiration</b>	<b>Available Lease Options</b>	<b>Final Expiration</b>	<b>CPI Table</b>	<b>Sq. Ft. Available</b>	<b>Cost per Sq. Ft.</b>	<b>Rent</b>	
<i>Artistic Heritage of N.O.</i> 507 St. Ann	3/1/2010	03/01/16	03/01/18	2 years 2-2 yr opts	02/28/22	82-84=100 230.422	362.68	40.43	<b>Base</b>	\$ 1,195
									<b>C.A. fee*</b>	\$ 27
									<b>TOTAL</b>	\$ 1,222
<i>Little Toy Shop, Too!</i> 513 St. Ann	3/1/1984	03/06/12	04/01/18	2 years 2-2 yr opts	03/31/18	82-84=100 219.50	1,254	49.21	<b>Base</b>	\$ 5,042
									<b>C.A. fee*</b>	\$ 100
									<b>TOTAL</b>	\$ 5,142
<i>Ma Sherie Amour</i> 517 St. Ann	2/1/1997	02/01/16	02/01/18	2 years 2-2 yr opts	01/31/22	82-84=100 230.422	1,315.6	41.75	<b>Base</b>	\$ 4,477
									<b>C.A. fee*</b>	\$ 100
									<b>TOTAL</b>	\$ 4,577
<i>Photo Works LLC</i> 521 St. Ann	3/20/2009	04/01/15	04/01/19	2 years 2-2 yr opts	03/31/21	82-84=100 231.100	1,290	44.35	<b>Base</b>	\$ 4,668
									<b>C.A. fee*</b>	\$ 100
									<b>TOTAL</b>	\$ 4,768
<i>Jackie's</i> 525 St. Ann	7/1/2002	10/01/10	10/01/18	2 years 3/2 yr opts	09/30/18	82-84=100 210.99	1,165	51.23	<b>Base</b>	\$ 4,884
									<b>C.A. fee*</b>	\$ 90
									<b>TOTAL</b>	\$ 4,974
<i>Pro-Image Sports</i> 809 Decatur	2/4/2008	06/01/14	06/01/18	2 years 2-2 yr opts	05/31/20	82-84=100 227.6	1,078	41.31	<b>Base</b>	\$ 3,632
									<b>C.A. fee*</b>	\$ 79
									<b>TOTAL</b>	\$ 3,711
<i>Creole Delicacies</i> 533 St. Ann	5/15/1964	02/17/12	03/01/18	2 years 2-2 yr opts	02/28/18	82-84=100 219.50	1,210	50.64	<b>Base</b>	\$ 5,006
									<b>C.A. fee*</b>	\$ 100
									<b>TOTAL</b>	\$ 5,106
<i>Tabasco Country Store</i> 537 St. Ann	8/24/2006	10/16/12	11/01/18	2 years 2-2 yr opts	10/31/2018	82-84=100 223.9	1,210	50.98	<b>Base</b>	\$ 5,043
									<b>C.A. fee*</b>	\$ 97
									<b>TOTAL</b>	\$ 5,140
<i>Stanley of New Orleans LLC</i> 547 St. Ann	5/1/2008	05/01/08	05/01/18	5 years 3-5 yr opts	04/30/28	82-84=100 203.437	2,970	60.51	<b>Base</b>	\$ 14,749
									<b>C.A. fee*</b>	\$ 228
									<b>TOTAL</b>	\$ 14,977
<i>Monty's on the Square</i> 801 Decatur	9/15/2000	10/01/08	10/01/18	5 years 2-5 yr opt	09/30/23	82-84=100 219.09	2,405	51.52	<b>Base</b>	\$ 10,139
									<b>C.A. fee*</b>	\$ 186
									<b>TOTAL</b>	\$ 10,325

Commercial lease information  
Lower Pontalba  
November 2017

Exhibit D

Commercial Tenant	Original Lease	Current Commencement	Optional Lease Expiration	Available Lease Options	Final Expiration	CPI Table	Sq. Ft. Available	Cost per Sq. Ft.		Rent	Date Received
<i>Violet's</i> 808 Chartres	11/6/1996	12/30/14	01/01/18	2 years 2-2 yr opt	12/31/20	82-84=100 231.1	974	41.75	Base	\$	3,042
									C.A. fee*	\$	79
									TOTAL	\$	3,121
<i>Tourist Info. Center</i> 529 St. Ann	8/9/1985	1/1/06	2/1/12	2 years 2-2yr opt	1/31/12	82-84=100 187.8	1,266	49.20	Base	\$	5,091
									C.A. fee*	\$	100
									TOTAL	\$	5,191
<b><u>Other Rental Property</u></b>											
<i>Irene's Cuisine</i> 539 St. Philip Street	10/1/1993	03/01/03	03/01/18	10 years 1-5 yr opt	02/28/18	12/77=100 175.1	3,036	21.15	Base	\$	5,350
									Total	\$	5,350

Updated 11/7/17

Exhibit E - FY 15-16 Ranked By Total Revenue Per Square Foot									
			Annual				Monthly		
	Tenant	Square Footage	Total Rent	BR	%S		TR	TR/ SQFT	BR
1	Stanley	2970	\$ 266,848.96	\$ 171,673.00	\$ 95,175.96		\$ 22,237.41	\$ 7.49	\$ 14,306.08
2	Violet's	974	\$ 61,486.48	\$ 36,000.00	\$ 25,486.48		\$ 5,123.87	\$ 5.26	\$ 3,000.00
3	Jackie's	1165	\$ 70,402.60	\$ 55,092.00	\$ 15,310.60		\$ 5,866.88	\$ 5.04	\$ 4,591.00
4	Monty's	2405	\$ 130,503.50	\$ 114,372.00	\$ 16,131.50		\$ 10,875.29	\$ 4.52	\$ 9,531.00
5	Creole Delicacies	1210	\$ 62,999.00	\$ 58,248.00	\$ 4,751.00		\$ 5,249.92	\$ 4.34	\$ 4,854.00
6	Pro-Image Sports	1078	\$ 52,045.79	\$ 42,324.00	\$ 9,721.79		\$ 4,337.15	\$ 4.02	\$ 3,527.00
7	Tourism	1266	\$ 60,000.00	\$ 60,000.00			\$ 5,000.00	\$ 3.95	\$ 5,000.00
8	Tabasco	1210	\$ 56,784.00	\$ 56,784.00	\$ -		\$ 4,732.00	\$ 3.91	\$ 4,732.00
9	Little Toy Shop	1254	\$ 58,684.31	\$ 58,373.00	\$ 311.31		\$ 4,890.36	\$ 3.90	\$ 4,864.42
10	Photo Works	1290	\$ 54,972.00	\$ 54,972.00	\$ -		\$ 4,581.00	\$ 3.55	\$ 4,581.00
11	Artistic Heritage	353	\$ 13,368.00	\$ 13,368.00	\$ -		\$ 1,114.00	\$ 3.16	\$ 1,114.00
12	Ma Sheri	1315	\$ 49,522.00	\$ 49,522.00	\$ -		\$ 4,126.83	\$ 3.14	\$ 4,126.83
			\$ 937,616.64				\$ 78,134.72		
FY 16-17 Ranked By Total Revenue Per Square Foot									
			Annual				Monthly		
	Tenant	Square Footage	Total Rent	BR	%S		TR	TR/ SQFT	BR
1	Stanley	2970	\$ 256,813.20	\$ 174,183.00	\$ 82,630.20		\$ 21,401.10	\$ 7.21	\$ 14,515.25
2	Jackie's	1165	\$ 67,161.28	\$ 55,342.00	\$ 11,819.28		\$ 5,596.77	\$ 4.80	\$ 4,611.83
3	Monty's	2405	\$ 137,258.20	\$ 114,840.00	\$ 22,418.20		\$ 11,438.18	\$ 4.76	\$ 9,570.00
4	Creole Delicacies	1210	\$ 67,599.06	\$ 59,296.00	\$ 8,303.06		\$ 5,633.26	\$ 4.66	\$ 4,941.33
5	Violet's	974	\$ 53,352.16	\$ 36,252.00	\$ 17,100.16		\$ 4,446.01	\$ 4.56	\$ 3,021.00
6	Pro-Image Sports	1078	\$ 53,677.90	\$ 42,869.00	\$ 10,808.90		\$ 4,473.16	\$ 4.15	\$ 3,572.42
7	Little Toy Shop	1254	\$ 59,896.48	\$ 59,640.00	\$ 256.48		\$ 4,991.37	\$ 3.98	\$ 4,970.00
8	Tourism	1266	\$ 60,455.00	\$ 60,455.00			\$ 5,037.92	\$ 3.98	\$ 5,037.92
9	Tabasco	1210	\$ 57,096.00	\$ 57,096.00	\$ -		\$ 4,758.00	\$ 3.93	\$ 4,758.00

10	Photo Works	1290	\$ 55,233.00	\$ 55,233.00	\$ -		\$ 4,602.75	\$ 3.57	\$ 4,602.75
11	Ma Sheri	1315	\$ 53,241.00	\$ 53,241.00	\$ -		\$ 4,436.75	\$ 3.37	\$ 4,436.75
12	Artistic Heritage	353	\$ 14,188.00	\$ 14,188.00	\$ -		\$ 1,182.33	\$ 3.35	\$ 1,182.33
			\$ 935,971.28				\$ 77,997.61		

Averages		
BR/SQFT	%S	%S/SQFT
\$ 4.82	\$ 7,931.33	\$ 2.67
\$ 3.08	\$ 2,123.87	\$ 2.18
\$ 3.94	\$ 1,275.88	\$ 1.10
\$ 3.96	\$ 1,344.29	\$ 0.56
\$ 4.01	\$ 395.92	\$ 0.33
\$ 3.27	\$ 810.15	\$ 0.75
\$ 3.95	\$ -	\$ -
\$ 3.91	\$ -	\$ -
\$ 3.88	\$ 25.94	\$ 0.02
\$ 3.55	\$ -	\$ -
\$ 3.16	\$ -	\$ -
\$ 3.14	\$ -	\$ -
Averages		
BR/SQFT	%S	%S/SQFT
\$ 4.89	\$ 6,885.85	\$ 2.32
\$ 3.96	\$ 984.94	\$ 0.85
\$ 3.98	\$ 1,868.18	\$ 0.78
\$ 4.08	\$ 691.92	\$ 0.57
\$ 3.10	\$ 1,425.01	\$ 1.46
\$ 3.31	\$ 900.74	\$ 0.84
\$ 3.96	\$ 21.37	\$ 0.02
\$ 3.98	\$ -	\$ -
\$ 3.93	\$ -	\$ -

\$ 3.57	\$ -	\$ -
\$ 3.37	\$ -	\$ -
\$ 3.35	\$ -	\$ -

**LEASE AGREEMENT**  
**BETWEEN**  
**LOUISIANA STATE MUSEUM**  
**AND**

Louisiana State Museum (hereinafter referred to as "Landlord") hereby leases to \_\_\_\_\_<sup>1</sup> (hereinafter referred to as "Tenant"), the following described property, consisting of approximately \_\_\_\_\_ square feet (hereinafter referred to as "Leased Premises") and commonly referred to as:

1. Defined Terms. The following terms shall, for the purpose of this Lease, have the meanings specified, and the following definitions shall be equally applicable to both the singular and plural forms of any of the said terms:
  - (a) Lease Term and Renewal Period. The term "Lease Term" means two years and no months from the Commencement Date, as extended by any renewal hereof. Tenant is hereby granted the option to renew the lease for \_\_\_\_\_ periods. Tenant shall give prior written notice to Landlord at least one hundred and fifty (150) days prior to the expiration of the term or renewal period of the Lease in effect. In the event that Tenant shall fail to give Landlord written notice of its desire to negotiate a renewal period at least 150 days prior to the expiration of this lease term or any subsequent renewal period, landlord will begin its regular commercial leasing procedure, including advertising, all as prescribed by law, and tenant, in order to once again lease the property will have to take part in this competitive process in order to be considered for a lease of the property. The decision to grant a renewal period at the request of the tenant shall be at the sole discretion of the landlord and under no circumstances shall this lease be interpreted to compel landlord to grant any renewal period of this lease.
  - (b) Commencement Date of Lease. The term "Commencement Date of Lease" means the date this Lease is executed by all parties hereto and has been delivered to and received by Tenant.

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<sup>1</sup>In the event Tenant hereunder shall be a corporation, the parties executing this Lease on behalf of Tenant hereby covenant and warrant as evidenced by the corporate resolution attached hereto and made a part hereof that Tenant is a duly qualified corporation authorized to do business in the State of Louisiana, that the corporate representative signing this lease has the authority to do so, that all franchise and corporate taxes have been paid to date and that all future forms, reports, fees and other documents necessary to comply with applicable laws and to remain qualified to do business in the State of Louisiana will be filed when due.

- (c) Lease Year. The term "Lease Year" means the year commencing on the Commencement Date of Lease and each anniversary thereof, and ending one (1) day prior to the anniversary of such date; provided, however, that if the Commencement Date of Lease is any date other than the first day of a calendar month, the first Lease Year shall commence on the first day of the first full calendar month in the Term hereof.
- (d) Permitted Use. The term "Permitted Use" means the use and operation of

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Further, in its operation of said \_\_\_\_\_, tenant may not vary from the list of items to be sold as represented on its application without the express permission of the Board of the Louisiana State Museum.

- (e) Gross Sales. The term "Gross Sales" means the entire amount of the selling price of all merchandise, goods, property, and services sold in or from the Leased Premises by Tenant, its' licensees, and concessionaires, whether for cash or for credit, and of all orders filled at or secured or received in the Leased Premises by telephone, video, or other electronic, mechanical or automated means, by mail, house-to-house or other canvassing, by personnel operating from, reporting to, or under the supervision of any employee, agent, or representative located at or operating out of the Leased Premises, whether or not filled elsewhere, and the gross amounts received from any other activities conducted by or under the authority of Tenant upon the Leased Premises. No deductions shall be allowed for uncollected or uncollectible credit accounts.

Gross Sales shall not include the following:

- (1) The net amount of any refund made or credit allowed upon any sale in or from the Leased Premises where the merchandise sold, or some part thereof, is thereafter returned by the purchaser to and accepted by Tenant (not exceeding in amount the selling price of the item in question.)
  - (2) Exchanges or transfers of merchandise between stores of Tenant where such exchanges are made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale which has been made at, in, upon, or from the Leased Premises, or having the effect of depriving Landlord of the benefit of a sale which would otherwise have been made in, at, upon or from the Leased Premises;
  - (3) Returns to suppliers or manufacturers;
  - (4) The amount of any city, parish, state or federal sales, use, luxury or excise tax on such sales which is both added to the selling price (or absorbed therein) and paid to the taxing authorities by Tenant (but not by any vendor or vendee of Tenant);
- (f) Monthly Minimum Rental. For the Leased Premises, the monthly minimum rental initially means the sum of \$\_\_\_\_\_ per month, subject to the adjustments which apply, as hereinafter provided. At the end of the first year of this lease and every twelve (12) months thereafter during the term of this lease and any renewal periods thereof, the



monthly minimum rental shall be adjusted for the increase in the Consumer Price Index for all Urban Consumers (CPI-U) (1982-84 = 100) for the Southern Region published by the U. S. Department of Labor since the original signing as follows:

Latest CPI divided by the CPI as of original signing times the original lease amount.

However, in no event shall the monthly minimum rent during the term of this lease or any renewal period thereof be less than that charged herein for the initial two year period, or the highest rent paid during the initial term of the Lease, whichever is higher. For the purpose of this lease, Landlord and Tenant agree that the latest published C.P.I. for the Southern Region is \_\_\_\_\_ at the time of signing this Lease.

- (g) Percentage Rental. The term "Percentage Rental" means the sum equal to \_\_\_\_\_ percent ( %) of Tenant's monthly gross sales (alternative form adds: of retail food, \_\_\_\_\_ percent ( %) of alcoholic beverage sales,) less the monthly minimum rental for the Leased Premises actually paid for the relevant month; provided, however, that in no event shall percentage rental calculated on a monthly basis be less than zero.

It is expressly acknowledged by both parties to this Lease that these Percentage Rental provisions apply with full force and effect to any mail order revenues, catalog business revenues, web-site revenues, electronic commerce or e-commerce revenues, Internet or e-mail orders, or any other form of revenue which advertises, references, depicts, or emanates from the Lessee's business or Leased Premises, or which advertises, references or depicts generally Lessee's business, or corporate name, Internet domain name, Pontalba name, or other name under which the Lessee does business from the Leased Premises.

- (h) Landlord's Address for Notices. The term "Landlord's Address for Notices" shall mean 751 Chartres Street, New Orleans, Louisiana, 70116, unless changed by notice from Landlord to Tenant.
- (i) Tenant's Address for Notices. The term "Tenant's Address for Notices" shall mean \_\_\_\_\_ unless changed by notice from Tenant to Landlord.
- (j) Tenant Improvements mean such improvements, including, without limitation details of mechanical and electrical installations and all parts which will affect the appearance of the building and its structural, mechanical or electrical components and indicating connected fixture lighting, equipment and receptacle locations and loads, motor sizes and locations, sound system wiring and outlets and special requirements of tenant's business.

2. Lease. Landlord hereby leases to Tenant, the Leased Premises, more fully described in the first paragraph of this Lease, for the Term, at the rentals and pursuant to all of the terms, covenants and conditions contained herein. Tenant accepts the Leased Premises "AS IS" and broom clean.

- (a) Tenant shall provide, at his sole cost and expense, Tenant improvements. Complete drawings and specifications, with respect to improvements, including, without limitation, details of mechanical and electrical installations, all items which will affect the appearance of the building, structural, mechanical or electrical components and indicating fixture lighting, equipment receptacle locations, load, motor sizes [if any], locations, sound system wiring, outlets [if any], and special requirements shall be

submitted to Landlord for its examination and approval. Tenant shall not proceed with the installation of such improvements until he has received the written approval of Landlord.

- (b) Before commencement of work on any improvements, Tenant shall supply Landlord with appropriate Lien and Performance Bonds. These bonds are at Tenant's expense and shall be issued in a form satisfactory to Landlord and in such manner to protect the interest of Landlord in the Premises.
- (c) All interior and exterior additions or alterations, all mechanical and electrical installations, all graphics and any other installations or modifications made by Tenant shall comply with the "Recommendations and Regulations for Shop Tenants, First Floor Commercial Spaces, Lower Pontalba Building" prepared by Koch & Wilson Architects, dated 10 March, 1982, and revised 29 March, 1982.

3. Term and Surrender of Possession. The term of this Lease shall commence upon the Commencement Date of Lease and continue thereafter for the Lease Term. If the Commencement Date of Lease is any date other than the first day of a calendar month, the Term of this Lease shall be extended for such additional number of days as is necessary to cause this Lease to expire on the last day of the calendar month in which such expiration of Term otherwise would occur. At the expiration of this Lease, or its termination for other causes, Tenant is obligated immediately to surrender possession of the Leased Premises to Landlord, and should Tenant fail to do so, he consents to pay liquidated damages in the amount of two (2) times the daily rent (base rent plus additional rent plus average of daily percentage rent over last six (6) months) for each day until possession of the premises is surrendered to Landlord, broom clean and trash-free. Should Landlord allow or permit Tenant to remain in the Leased Premises after the expiration of this Lease, in the absence of a written agreement to the contrary, Tenant shall be deemed to have a month-to-month tenancy, subject to all the provisions hereof except the term.

4. Rent.

- (a) Minimum Rent. Tenant shall pay to Landlord the Monthly Minimum Rental, in advance, on the first day of each calendar month during the Term hereof.
- (b) Late Fee. See Policy Regarding Past Due Rent and Late Charges which is attached hereto as Exhibit A and made a part hereof as though copied herein *in extenso*.
- (c) Percentage Rent.
  - (1) In addition to the Monthly Minimum Rental payable hereunder, Tenant shall pay to Landlord, on or before the fifteenth (the) day of each calendar month during the Term hereof, the Percentage Rental for the preceding calendar month.
  - (2) At all times during the Term of this Lease, Tenant shall maintain full, complete and proper books, records, and accounts with respect to Gross Sales. Tenant shall, for a period of three (3) years after the end of any Lease year, preserve copies of all of tenant's books, records, accounts and other data which in any way bear upon or are necessary to verify in detail Tenant's Gross Sales and any authorized deductions therefrom, including any sales tax reports which Tenant

may furnish or be required to furnish to any governmental agency. Upon request, Tenant shall make such books, records, accounts and data available for inspection by Landlord, or its authorized representatives and agents, at all reasonable times during said three (3) year period.

- (3) Concurrently with each payment of Percentage Rental pursuant to subparagraph [1] or, if no such rental is payable, on or before the fifteenth [15th] day of each calendar month, Tenant shall furnish to Landlord a detailed statement in form prescribed by Landlord setting forth Gross Sales and any authorized deductions therefrom for the previous calendar month. Said statements shall be signed by Tenant or an officer of a corporate Tenant and shall be certified to be true and correct by the same Tenant or officer of the corporate Tenant. Tenant shall also supply Landlord with copies of all City and State Sales Tax Returns within five [5] days after they are filed with the respective City and State agencies.
- (4) On or before the thirtieth (30th) day following the end of each Percentage Year, Tenant shall furnish to the Landlord a statement (the "Annual Statement"), certified by an independent public accountant or by the principal financial officer of Tenant, of the Gross Sales during the preceding Percentage Year. Simultaneously with delivery of the Annual Statement, Tenant shall pay to Landlord the amount of any unpaid Percentage Rent due with respect to the preceding Percentage Year.
- (5) If Tenant fails to submit any statement of Gross Sales when required hereunder, Landlord, in addition to any other right or remedy hereunder, may cause an audit of Tenant's books, records, and accounts and determine Gross Sales for the relevant period. Said audit and determination shall be made by an ~~independent auditor~~ certified public accountant at the expense of Tenant; tenant shall pay the expense thereof to Landlord within ten (10) days after demand therefor. At any reasonable time within one (1) year after the end of any Lease Year, and upon written notice to Tenant, Landlord may cause a complete audit of Tenant's books, records and account to determine Gross Sales for any month or months during such Lease Year. If Tenant's Gross Sales as set forth in the statement furnished to Landlord for any relevant month are at least three (3%) percent less than Tenant's Gross Sales as determined by any such audit, Tenant shall immediately pay to Landlord the deficiency in Percentage Rental so found to be due and the expense of such audit and determination. Any information obtained by Landlord as a result of any such audit shall be confidential, provided, however, that in the event of any controversy between Landlord and Tenant, Landlord may use such information in any appropriate manner. If Tenant audits or causes to be audited Tenant's books, records and accounts with respect to any Lease year, Tenant shall promptly furnish to Landlord a copy of the portion of the audit report relating to gross Sales without cost or expense to Landlord.
- (6) Landlord's acceptance of any sum paid to Landlord by Tenant as Percentage Rental for the Lease Premises or reports thereon as required under the terms of this Lease shall not be an admission of the accuracy of any monthly statement of Gross Sales furnished by Tenant, or of the sufficiency of said Percentage Rental payments.

- (d) Additional Rent. [Contributions to common area expenses] As further additional rental hereunder Tenant shall pay to Landlord in addition to the MINIMUM RENT, the expenses incurred by Landlord in connection with the maintenance and administration of the "common areas". Tenant's contribution shall be computed by a formula based upon the ratio of the space leased to Tenant hereunder to the total rentable space in the Lower Pontalba Building.

Tenant's contribution shall be payable on a monthly basis to the Landlord in conjunction with the base rental amount.

Common area expenses for the purpose of this section mean the following:

- (1) Garbage and other refuse;
  - (2) The security service [salaries, contracts, and equipment];
  - (3) Vermin control
  - (4) The cost of water for all tenants of the Lower Pontalba Building with the exception of the separately metered restaurants.
- (e) Tax on Rental Income. As further additional rental hereunder, Tenant shall pay to Landlord, within ten [10] days after written demand therefor, an amount equal to any tax that may be levied, assessed, or imposed, by any governmental authority acting under any present or future law, upon or against or which shall be measured by, any rents or rental income, as such or in connection with the Leased premises or any part thereof or any interest of Landlord therein, payable by or on behalf of Landlord, except any such tax which Landlord may from time to time be required to pay on such rental income in common with other nonrental income received by Landlord in the regular course of its business.
- (f) Prorations. Monthly Minimum Rental, Percentage Rental and additional rental hereunder shall be appropriately adjusted to reflect any partial month or tax year at the beginning or end of the Term of this Lease.
- (g) Place and time of Payment. All rental payable hereunder shall be paid to Landlord without notice or demand at its Address for Notices hereunder or at such other address as may from time to time be designated by notice to Tenant. Tenant shall pay any charge required to be paid hereunder, the time and manner of payment of which is not specifically provided elsewhere herein within ten (10) days following receipt of a bill therefor from Landlord.
- (h) No Set-Off. All Rent shall be payable without deduction, set-off, abatement or diminution except as otherwise specifically set forth in this Lease, and the Tenant hereby expressly waives the benefits of any and all laws permitting the Tenant to claim a set-off against Rent for any cause whatsoever.

5. Use of Leased Premises.

- (a) Permitted Uses. Tenant may use and occupy the Leased Premises only for Permitted Uses. Tenant shall warehouse, store, and/or stock in the Leased Premises only such quantities of goods, wares, and merchandise as are reasonably required by Tenant for

sale at retail at, in, or from the Leased Premises. The Tenant shall use for office, clerical and other non-selling purposes only such space in the Leased Premises as is from time to time reasonably required for Tenant's business therein, not including any other business of Tenant in locations other than the Leased Premises.

- (b) Competitive Leases. Nothing in this Lease is intended to grant to Tenant an exclusive right to conduct business in the Lower Pontalba Building for any Permitted Use or otherwise.
- (c) Business Hours. Tenant covenants that it will carry on the trade or business provided for hereinabove upon the Leased Premises and will not suffer or permit any interruption or suspension thereof during normal business hours. Tenant's business hours shall be posted on the main door of the Leased Premises. Such business hours shall be regular and reasonable. The following hours shall be the business hours:

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Tenant's public hours of operations are limited to between 7:00 a.m. and 9:00 p.m. No one, including employees of Tenant, is permitted in the Leased Premises between the hours of 11:00 p.m. and 5:30 a.m. Landlord recognizes that on rare occasions, in order to deal with emergencies, it may be necessary to deviate from said hours of operation in order to accommodate workmen, but not normally to accommodate employees of tenant.

- (d) Compliance with Laws and Regulations. Tenant shall, at his sole expense, comply fully with all laws, rules, and orders of all federal, state and municipal governments and any subdivision or agency thereof applicable to the Leased Premises or Tenant's use or occupancy thereof.

Tenant shall neither do nor permit any act which will cause or tend to cause the premiums for insurance upon the Building in which the Leased Premises are located to increase, or cause a cancellation of any insurance policy covering said building, or any part thereof. Tenant shall not sell, or permit to be stored, used, or sold, in or about the Leased Premises, any article which may be prohibited by the standard form of fire insurance policy in effect from time to time. Tenant shall, at this sole cost and expense comply with any and all requirements and recommendations of any insurance organization or company, including, without limitation, the board of fire underwriters, pertaining to the use or occupancy of the Leased Premises by Tenant, if compliance with such requirements or recommendations is necessary for the maintenance of reasonable fire and public liability insurance covering the Lower Pontalba Building or its appurtenances or the Leased Premises. Tenant shall pay on demand any increase in premiums for fire insurance carried by Landlord on the Leased Premises or the building or buildings in which they are located arising from any activity of Tenant, whether or not Landlord has consented to such activity.

- (e) Windows and Signs. Whether or not open for business, Tenant shall keep his show windows and signs illuminated during such hours as Landlord may reasonably designate. Tenant shall keep all of his show windows and display areas attractively trimmed with appropriate, clean displays of Tenant's merchandise. Tenant shall not cover or obstruct any windows, glass doors, lights, skylights or other apertures, which reflect or admit light into the Leased Premises.

- (f) No Auction Sales. Tenant shall neither conduct or permit to be conducted on the Leased Premises or elsewhere in the Lower Pontalba Building any sale by auction, or any fire, distress or bankruptcy sale.
  - (g) Sidewalk. Tenant shall not use or permit the sidewalk adjacent to the Leased Premises to be used for any vending machine, amusement device, scales, newsstand, cigar stand, sidewalk shop or other business, occupation or undertaking. Tenant shall not place or display any merchandise or other object on or otherwise obstruct any sidewalks, walkways, or areaways. Tenant shall not distribute any handbills or other advertising, political or religious matter on or about the sidewalks, street, passageways or public areas within or surrounding the Lower Pontalba Building.
  - (h) Animals. Tenant shall not keep or permit the keeping of any animal of any kind, in, about, or upon the Leased Premises.
  - (i) Lodging Prohibited. Tenant shall not use or permit use of any portion of the Leased Premises as living quarters, sleeping apartments or lodging rooms.
  - (j) Quality. Tenant recognizes that Landlord's objective at the Lower Pontalba Building is to provide a center of high quality shops and restaurants appealing to residents and tourists who are seeking distinctive merchandise and food, dining and service of the highest order. Tenant shall supply merchandise and services on this basis. Landlord shall determine standards of quality for all goods used or sold by Tenant, standards of service in connection with their sale and standards of quality and utility for all furnishings and fixtures of the Leased premises based upon the appropriate industry standards applicable to Tenant's business. Tenant shall conform to such standards and operate his business so as to sustain the good will and prestige of the Lower Pontalba Building enjoys with the public. If Tenant shall in any way fail to maintain the standards of quality or service established by the Landlord, Landlord shall call Tenant's attention to such failure by written notice to Tenant, specifying the violation involved and suggesting remedial steps therefor. If, in the reasonable opinion of the Landlord, said failure shall not have been corrected within three [3] months after the giving of such written notice, or if it cannot be corrected within three [3] months, such greater time as may be necessary and as agreed upon by and between Landlord and Tenant, the Landlord shall thereupon have the right, upon written notice to Tenant, to that fact, to terminate this Lease.
  - (k) Security of Leased Premises. Tenant shall install a security system that will be monitored off-site by a third party that will not only provide protection for Tenant, but will also monitor the time of entry each morning and the time of closure each evening. During the hours of 11:00 p.m. until 5:30 a.m., entry will be permitted only to investigate reported disturbances.  
Tenant hereby agrees to allow, authorize and cause the release of these security records from the security company to Landlord upon request of Landlord. All courtyards shall be secured at night and the doors leading into the courtyards closed as much as possible during the daytime hours.
6. Name. Tenant shall not use, publish or advertise in any solicitation or otherwise, the name Pontalba or Louisiana State Museum without the prior written approval of Landlord of the time,

place, and manner of such publication, advertising or use, except that Tenant may use the name Lower Pontalba Building in advertisements to indicate the location of Tenant's business without prior approval. Tenant shall not change Tenant's Business Name and shall not use any other name in advertising Tenant's business in the Leased Premises without the prior written approval of Landlord.

7. Utilities. Tenant shall pay for all gas, electricity, telephone service, sewer service, waste removal and other services supplied to or consumed in or upon the Leased Premises from the first day Tenant enters the Leased premises, whether or not prior to the commencement of the Term of this Lease, through the last day of the Term of this Lease. Tenant shall make payment directly to the utility company or other company providing the service and in no event shall Landlord ever be liable to any suppliers of any such utilities for services contracted for and/or used by Tenant in connection with the Leased Premises. Tenant's use of all utilities, except domestic water, shall be measured by separate meters. Landlord shall provide water to all tenants except those major restaurant tenants who are required to install their own separate water meters. Tenant recognizes that Tenant's consumption of domestic water cannot be separately metered (with the exception of the aforementioned restaurants) and that the cost of providing domestic water service to the Leased Premises and all other premises in the Lower Pontalba Building shall be part of the Common Expenses.

Tenant agrees that it will not install any equipment which will exceed or overload the capacity of any utility facilities installed by Landlord and that if any equipment installed by Tenant shall require additional utility facilities, such facilities shall be installed at Tenant's expense in accordance with plans and specifications to be approved in writing by Landlord. Landlord shall not be liable to Tenant for any interruption in service of water, electricity, heating, air conditioning or other utilities and services caused by an unavoidable delay in the making of any necessary repairs or improvements, or by any cause beyond Landlord's reasonable control.

Tenant shall install and maintain at all times during the Term of this Lease telephone service on the Leased premises, with the number fully listed in the telephone directories.

8. Personal Property Taxes. Tenant agrees to pay, before delinquency, all property taxes on the furniture, fixtures, equipment and other property of Tenant at any time situated or installed in the Leased Premises, and on additions or improvements in the Leased Premises made or installed by Tenant. If at any time during the Term of this Lease, any of the foregoing are assessed as part of the real property on which the Leased Premises are situated, then and in such event Tenant shall pay to Landlord, upon demand, the amount of such additional taxes as may be levied against said real property by reason thereof.
9. Restrictive Covenants. Tenant agrees that during the Term of this Lease he will not, nor will any person, firm or corporation which controls or is controlled by Tenant, or is under direct or indirect common control with Tenant, directly or indirectly manage, own, operate, control or become financially interested in, or participate in the management of, a business similar to the one to be operated by Tenant hereunder less than one [1] mile from the Leased Premises, unless, after receipt of written request from the Tenant, the Board of Directors of the Louisiana State Museum grants an exception to such rule on the basis of criteria described below.

In order for a prospective Tenant to be considered for exception which prohibits ownership of another establishment within a one mile radius of the Lower Pontalba Building, the Tenant must satisfy the following criteria:

The business must be of special interest to the Board of Directors of the Louisiana State Museum; the following considerations shall determine special interest:

- (a) The decor, product, or service which it offers must be markedly distinctive, of high quality, locally hand-crafted, or present a unique degree of local flavor.
- (b) The product or service is especially appropriate to complement or complete the overall tenant-mix or is especially appropriate to the historic nature of the Lower Pontalba Building and/or the French Quarter, or;
- (c) The establishment is strong financially and can demonstrate the ability to design, stock, and operate a highly successful retail business.

The tenant must agree not to open any additional retail outlets within the one-mile radius.

Tenant agrees that during and after the Term of this Lease it will not, nor will any person, firm, or corporation which controls or is controlled by Tenant, operate under or use in any manner, any name which includes the name Pontalba, or Lower Pontalba, without the written approval of the Landlord.

Tenant shall not maintain, operate or store any equipment in the courtyard area unless otherwise agreed to by Landlord.

10. Rules and Regulations. Tenant agrees that Landlord may, from time to time, establish reasonable rules and regulations for the management, safety, care and cleanliness of the Lower Pontalba Building and the preservation of good order therein and for the convenience of all occupants and tenants of the Lower Pontalba Building. A copy of the current rules and regulations are attached hereto as Exhibit B and are made a part hereof as though copied *in extenso*. Tenant, together with all other persons entering or occupying the Leased Premises at Tenant's request or with Tenant's permission shall comply with such rules and regulations. The violation of any such rules and regulations by Tenant or any such person shall be a breach of this Lease by Tenant. Amendments and additions to such rules and regulations may be made by Landlord from time to time and shall become a part of this Lease as though copied *in extenso* and shall become effective upon delivery in person or by certified mail of a copy to Tenant at the Leased Premises.

11. Maintenance and Repair.

- (a) Tenant's Duties. By entry hereunder, Tenant acknowledges that the Leased Premises and appurtenances are in good, clean and sanitary order and repair. Tenant acknowledges further that the renovations and remodeling referred to in Item 12: Alterations below and the leased premises in general shall be kept and maintained in such a state as to be in accordance with Landlord's objective to provide a center of high quality shops and restaurants appealing to residents and tourists who are seeking distinctive merchandise and food of the highest order. Tenant, at its expense, shall maintain in good order and repair, including necessary replacements, the entire front entrance and all portions of the interior of the Leased premises and appurtenances, including without limitation, floor structures, exposed electrical and plumbing pipes, lines and fixtures, utility installations, doors, and windows. Tenant shall maintain all heating and other equipment installed in the Leased Premises, whether installed by Tenant or by Landlord. Tenant, at its expense,



shall keep and maintain the Leased Premises, and appurtenances clean and sanitary. In such maintenance, Tenant shall not alter the appearance of any portion of the Premises visible to persons outside the Leased Premises without written consent of the Landlord. Tenant's obligation shall include, without limitation, keeping the sewers and drains open and clear. Tenant shall not use the plumbing facilities of the Lower Pontalba Building for any purpose other than that for which they were constructed or dispose of any or injurious substance therein; any expense resulting from such use shall be paid by Tenant upon demand. Tenant shall not burn any papers, trash, or garbage of any kind in the Leased Premises. Tenant shall store all refuse and other waste materials within the Leased Premises in a location which is not visible to those shopping in the Lower Pontalba Building, and will arrange for regular removal thereof at its expense. Waste materials, which are temporarily stored outside of the Leased Premises, prior to removal, shall be stored only in containers, only at such locations, and only for such time periods as are approved by the Landlord in writing. Except as otherwise expressly provided herein, any and all repairs of any nature whatsoever shall be at the expense of Tenant, except such as may be caused by the negligence or willful conduct of Landlord, its agents or employees.

On the last day of the Term hereof, Tenant will remove its signs, attachments, and trade fixtures from the Leased premises and surrender the Leased Premises and appurtenances to Landlord in a state of good repair, reasonable wear and tear, obsolescence and damage by fire, act of God or the elements, or damage which Landlord is required to repair hereunder excepted.

- (b) Landlord's Duties. Landlord shall, at its expense, maintain the exterior side walls, the roof, all unexposed plumbing and electrical pipelines and fixtures originally installed by Landlord. Written notice shall be given by Tenant to Landlord regarding any defects or problems in regard to the exterior side walls, the roof, all unexposed plumbing and electrical pipelines and fixtures originally installed by Landlord which come to the attention of Tenant. Daily maintenance of all Public Areas, including the walkways and restrooms, other than those within the Leased Premises, and outdoor gardens, shall be performed by Landlord at the expense of Tenant pursuant to the provisions contained in Paragraph 4[d] of this Lease. Except as expressly provided herein, Landlord shall have no obligation to maintain or repair any portion of the Leased Premises or to provide any services whatsoever to Tenant or the Leased Premises.
- (c) No Representations or Warranties. Landlord has made no representation or promises with respect to this Lease, with respect to the Leased Premises or with respect to any matter related thereto, other than as expressly set forth herein.

Landlord makes no warranties with respect to any furnishings, equipment or other property or the Premises Leased or used by Tenant or his agents, employees, licensees and invitees hereunder, except as expressly set forth herein. Tenant has inspected the Premises and any other property leased or to be used hereunder and agrees that, except as expressly set forth herein, he takes the Premises and such other property "as is". All implied warranties are excluded, including implied warranties of merchantability and fitness, if any.

- (d) Servitude. Tenant agrees that Landlord shall have the right to make such repairs and changes to the structure of the building, including patios and outbuildings, as may be

necessary to maintain or improve the integrity of the building. Landlord agrees to give Tenant at least thirty [30] days notice of the commencement of such work unless the repairs are necessary to correct a dangerous condition on an emergency basis. Tenant shall have no claim for rebate of rent or damages on account of any interruptions in service occasioned by said repairs and changes to the structure of the building by Landlord or resulting therefrom.

12. Alterations. Tenant shall not make, or suffer to be made, any alterations or improvements of the Leased Premises, or any part thereof, without the prior written consent of Landlord as to nature, style, location and safety. When applicable, tenant agrees that it will spend not less than \$\_\_\_\_\_ remodeling the Leased Premises within \_\_\_\_\_ of the date of the signing of this lease and shall provide landlord upon demand paid receipts or canceled checks to evidence same. Tenant shall retain title to all movable furniture and trade fixtures placed in the property by it. No such alterations shall be made in a manner which damages the Building of which the Leased Premises are a part. Tenant shall immediately repair any damage caused by or in connection with the installation or removal of any such improvements, furniture or trade fixtures. All concealed utilities and water lines and pipes, ventilation pipes, stacks and duct work and electrical wiring, conduit and controls installed by Tenant shall be and become the property of Landlord upon installation without payment of any compensation to Tenant and shall not be deemed trade fixtures. If Landlord has consented to any proposed alterations or improvements by Tenant, Tenant shall advise Landlord in writing, in advance, of the date upon which such alterations will commence and furnish a bond satisfactory to Landlord to secure Landlord against any liens or claims of lien for labor, material, or supplies. Tenant will promptly pay and discharge all claims for work or labor done, supplies furnished or services rendered at the request of Tenant and will keep the Leased Premises free and clear of all mechanic's and materialmen's liens in connection therewith. Tenant shall also comply with the provisions set forth in Section 2[b] of this Lease.
13. Signs and Attachments. Tenant shall not place or permit to be placed any sign, marquee, awning, decoration or other attachment to the roof, front, windows, doors or exterior walls of the Leased Premises without the prior written consent of Landlord. Landlord may, without liability and at Tenant's expense, enter upon the Leased Premises and remove any sign, marquee, awning, decoration or attachment placed on the Leased Premises without such consent. Landlord may establish rules and regulations regarding size, type and design of all exterior signs and decorations in the Lower Pontalba Building. Tenant agrees to comply with such rules and regulations and to purchase and install at each customer entrance an exterior identity sign conforming to such rules and regulations. Tenant shall repair, at its sole cost and expense, any damage to the Building caused by the erection, maintenance or removal of any sign, marquee, awning, decoration or other attachment. Tenant shall not use in, or about the leased Premises, any advertising medium which may be heard or experienced outside the Leased Premises, such as flashing lights, searchlights, loudspeakers, phonograph or radio broadcasts, without the prior written consent of Landlord.
14. Waste - Nuisance. Tenant shall not commit, or suffer to be committed, any waste upon the Leased Premises, or any public or private nuisance, or other act or thing which may disturb the quiet enjoyment of any other tenant in the building in which the Leased Premises may be located or any other tenant in the Lower Pontalba Building, neighbors of the Lower Pontalba Building, or public authorities.

15. Inspection of Leased Premises. Landlord, at all reasonable times, may go upon and into the Leased Premises for any of the following purposes:

To inspect the same;

To inspect the performance by Tenant of the Terms and conditions hereof;

To construct, maintain, alter, repair, or add to the Leased Premises or the Building of which the Leased Premises are a part.

16. Parking. Tenant shall not park, operate, load or unload any car, truck, or other vehicle on any part of the Lower Pontalba Building or Jackson Square, except in areas and at times designated by Landlord. Landlord and its agents shall have the right to remove or cause to be removed any car of Tenant, its employees or agents that may be parked in any area other than such designated areas. Any such removal shall be without liability of any kind to Landlord, his agents or employees, and Tenant agrees to indemnify and hold harmless Landlord, its agents and employees from any and all loss, cost, liability, damage or expense arising from or in connection with such removal. Landlord may at any time exclude Tenant and its employees from using parking facilities owned by Landlord.

17. Destruction. Except as expressly provided herein, Landlord shall not be required to repair the Leased Premises in the event of any total or partial destruction thereof.

- (a) In the event of total or partial destruction of the Leased Premises from any cause insurable under a standard policy of fire and extended coverage insurance, Landlord shall forthwith repair the same; provided, however, that Landlord shall not be obligated to make such repairs if they cannot be made within sixty [60] days from date of destruction, under the then applicable laws and regulations of Federal, State, Parish and Municipal authorities and in the light of the extent of damage and the then condition of the labor market and availability of materials and supplies.
- (b) If Landlord is required to make repairs or if Landlord need not make such repair but nevertheless elects to make the same and notifies Tenant of its election within a reasonable time after such destruction, this Lease shall continue in full force and effect and the rent shall be proportionately reduced while repairs are being made; such reduction shall be based upon the extent to which the damage and making of repairs shall interfere with the business carried on by Tenant in the Leased Premises.
- (c) In the event that Landlord is not required to make repairs and does not elect to make such repairs, this Lease may be terminated at the option of either party by notice to the other within five [5] days after Landlord notifies Tenant that it is not required to make repairs and does not so elect.
- (d) In the event that the building in which the Leased Premises are situated is damaged from any cause to the extent of not less than 33-1/3% of the replacement cost thereof or more than 50% of the floor area of the building in which the Leased premises are situated, or if the building in which the leased premises are situated is so damaged from any cause as to be wholly untenable, Landlord may elect, within thirty [30] days after such damage, for Tenant to temporarily vacate the Demised Premises to allow Landlord to make such repairs during which period Tenant's obligations under the Lease will be abated. Landlord will give Tenant a reasonable time to vacate the Demised Premises.

- (e) A total destruction of the building in which the Leased Premises are located shall terminate this Lease.
- (f) Notwithstanding any other provision herein, if at the time of any damage to the Leased premises, the amount of minimum rent remaining due hereunder for the balance of the Term hereof is less than the cost to Landlord of repairing such damage, and the Landlord elects not to repair such damage, then this Lease may, within ten [10] days from the date of such damage, at the option of Landlord, be canceled by notice in writing to Tenant.

18. Insurance.

- (a) Public Liability. Tenant shall, at its own cost and expense, keep and maintain in full force during the Term of this Lease, public liability insurance covering the Leased Premises and Tenant's activities therein against claims for personal injury and death in an amount not less than One million (\$1,000,000.00) Dollars for injury or death of any one person, Two Million (\$2,000,000.00) Dollars for injury or death of all persons in any one accident or occurrence, and Two Million (\$2,000,000.00) Dollars property damage. The limits of the insurance required to be maintained by Tenant under this Public Liability section of the Lease shall be increased from time to time to the extent that an increase is necessary to provide adequate coverage in view of inflation, an increase in judgments or awards and any other relevant factors as determined by the State of Louisiana, Division of Administration, Office of Risk Management. The proceeds of said property insurance with respect to Tenant's improvements and inventory/stock shall be payable jointly to the Landlord and Tenant and, in the event of a casualty, all proceeds shall be disbursed in such manner as the Landlord may reasonably require to insure re-stocking of the Tenant's inventory and restoration of the Tenant's improvements, fixtures and equipment.
- (b) Glass. Tenant shall maintain, at its expense, adequate glass insurance.
- (c) Worker's Compensation. From and after the date of Delivery of Possession and throughout the term of this Lease, Tenant shall maintain in full force and effect a policy or policies of worker's compensation insurance in the amount required by law.
- (d) General Requirements. Any insurance procured by Tenant as required by this Lease shall be issued in the name of the Tenant with the Landlord listed as an additional insured thereunder by a company qualified to do business in the State of Louisiana acceptable to Landlord, with a general policyholders rating not less than A and a financial rating of XII or better as listed in the most current available "Best's Insurance Reports." All such insurance policies shall contain endorsements that such insurance may not be canceled or amended with respect to Landlord by the insurance company without thirty (30) days prior written notice to Landlord; shall have a maximum deductible of \$1,000.00; and in the event of payment of any loss covered by such policy, shall provide that Landlord's loss be paid first by the insurance company. Tenant shall be solely responsible for payment of premiums for any insurance required of Tenant under this Lease. Tenant shall furnish to Landlord a certificate of such insurance evidencing the fact that the insurance described herein has been obtained and is in full force and effect.

- (e) Acts of Tenant Affecting Insurance. Tenant is obligated to put nothing in the Leased Premises, not to do anything which would forfeit the insurance, and should any installation made or action taken by Tenant, whether authorized or unauthorized under this Lease, increase the rate of insurance on the building or contents as fixed by the Property Insurance Association or any similar institution, then Tenant is obligated to fully pay such increased rate of insurance on the building and all contents. Should the Tenant's occupancy or business render the Landlord unable to secure proper insurance, then Tenant hereby grants to Landlord the option of canceling this Lease, Tenant waiving all delays, and agreeing to surrender possession at once, if notified by Landlord to do so.
  - (f) Miscellaneous covenants regarding liability and insurance. Tenant agrees to use and occupy the Leased Premises, and use such other portions of the Lower Pontalba Building as it is herein given the right to use, at its own risk and the Landlord shall have no responsibility or liability for any loss of or damage to fixtures, inventory or other property of Tenant or Tenant's employees, invitees or customers (except loss or damage caused by Landlord's negligence). Furthermore, Tenant agrees that Landlord shall not be responsible or liable to the Tenant, or to those claiming by, through or under Tenant, for any loss or damage that may be occasioned by or through the acts or omissions, negligent or otherwise, of persons occupying adjoining premises or any part of the premises adjacent to or connecting with the Leased Premises or any part of the Lower Pontalba Building or otherwise. Lastly, neither the minimum limits of any insurance coverage required herein nor the deductible allowed shall limit Tenant's liability under the terms of this Lease or at law. The provisions of this paragraph shall apply during the whole term of this Lease and during any period prior to the term hereof after Delivery of Possession.
19. Indemnification. Tenant covenants that it will hold and save Landlord harmless of and from any and all responsibility, loss, cost, liability, damage or expense, including without limitation, attorney's fees and disbursements, court costs, costs of defense, and other costs of any kind, caused by or arising from or in connection with injury or death of persons or damage to property in, upon or about the Leased Premises or caused by or arising from or in connection with activities conducted thereon, or any act or omission of Tenant including, without limitation, injury or death of Tenant, its agents, employees, licensees and invitees and damage to their property; provided, however, that Tenant shall not be required to indemnify Landlord for any damage or injury of any kind arising out of the negligence of Landlord, its agents or employees. Tenant shall in no event be liable to Landlord for any loss of or damage to property of Landlord caused by tenant, its officers, agents, employees or invitees, whether or not caused by negligence, if such loss or damage shall be fully paid under a standard policy of fire and extended coverage insurance.
- Landlord shall not be liable to the tenant for any damage to property or persons caused by, or arising out of (a) any defect in, or the maintenance or use of, the Leased Premises or fixtures and appurtenances thereof, or the building of which the Leased Premises constitute a part or fixtures and appurtenances thereof; or (b) water coming from the roof, water pipes, boilers, heating pipes, plumbing fixtures, waste pipes or any other source whatsoever whether within or without the Leased Premises; or (c) any act or omission of other occupants of said building.

20. Waiver of Subrogation. Landlord and Tenant hereby agree that no insurer of any interest of either of them shall have any right of subrogation against the other under any fire or extended coverage insurance policies carried by either on the Leased Premises or any part thereof and that an appropriate waiver shall be placed in such policies.
21. Eminent Domain.
- (a) Total or Substantial Taking. If the title to all the Leased Premises is taken for any public or quasi-public use under any statute or by right of eminent domain or by private purchase in lieu of eminent domain, or if title to so much of the Leased Premises is taken or if the Leased Premises be damaged by taking so that a reasonable amount of reconstruction thereof will not render the Leased Premises reasonably suitable for Tenant's continued occupancy and for the conduct of Tenant's business in a manner consistent with the conduct of said business prior to said taking, then in either event, this Lease shall terminate upon the date that possession of the Leased Premises or such part of the Leased Premises is taken or on the date such damage occurs.
  - (b) Partial Taking. If any part of the Leased Premises shall be so taken and the remaining part of the Leased Premises (at the reconstruction of the then existing building and improvements) is reasonably suitable for Tenant's continued occupancy for the purposes and uses for which the Leased Premises are leased and Landlord elects, by notice to Tenant within five (5) days of such taking, to cause such reconstruction, this Lease shall, as to the part so taken, terminate as of the date that possession of such part is taken, and the rental shall be reduced in the same proportion that the floor area of the portion of the Leased Premises so taken (less any additions to the Leased Premises by reconstruction) bears to the original floor area of the Leased Premises. In the event of such election, Landlord shall, at its own cost and expense, make all necessary repairs or alterations to the Leased Premises so that the remaining Leased Premises are reasonably suitable for Tenant's continued occupancy and for the conduct of the business of the Tenant. During such period of repair and restoration, rental shall be abated on a proportionate basis as it would be if the Leased Premises had been damaged or destroyed pursuant to the provisions of this Lease. Otherwise, this Lease shall terminate on the date that the possession of the part of the Leased Premises is taken.
  - (c) Damages. That portion of the compensation awarded or paid upon any such taking or purchase which is allocable to improvements and fixtures in, upon or forming a part of the Leased Premises which are the property of Tenant hereunder shall be paid to Tenant providing that it is not in default hereunder at the date of taking. The remainder of the award or payment shall belong to Landlord and Tenant waives the right to any part of such remainder.
22. Abandonment. Tenant agrees not to vacate or abandon the Leased Premises at any time during the term of this Lease. Should Tenant vacate or abandon said Leased Premises or be dispossessed, by process of law or otherwise, such abandonment, vacation or dispossession shall be a breach of this Lease, and, in addition to any other rights which Landlord may have, Landlord may either deem any personal property belonging to Tenant which remains on the Leased Premises to be abandoned, or remove such property and store the same, the cost of such removal and storage to be charged to the account of the Tenant. Further, in the event the Premises are abandoned by Tenant, Landlord shall have the right, but not the obligation, to relet same for the remainder of the term provided for herein; and if the rent received through such

reletting does not at least equal the Base Rent plus the additional rent payable hereunder, Tenant shall pay and satisfy any deficiency between the total amount of the rent so provided for and that received through reletting, and, in addition thereto, shall pay all reasonable expenses incurred in connection with any such reletting, including, but not limited to, the reasonable cost of advertising, commissions to brokers, leasing agents and others, the reasonable cost of renovation, altering and decoration for any new occupant. Nothing herein shall be construed as in any way denying Landlord its right, in the event of abandonment of said Premises or other breach of this Lease by Tenant, to treat the same as an entire breach, and at Landlord's option immediately sue for the entire breach of this Lease and any and all damages which Landlord suffers thereby.

In the event Tenant is forced to vacate or abandon the Leased Premises due to acts of God, partial or total destruction of the Leased Premises, actions of third parties not under the control of Tenant or acts of the Landlord (other than Landlord's acts in enforcing its rights hereunder against Tenant), then such vacation or abandonment shall not be deemed a breach of Paragraph 23 of the Lease.

23. Insolvency or Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant or of the operations of Tenant in the Leased Premises, a general assignment by Tenant for the benefit of creditors, or the commencement of insolvency or bankruptcy proceedings by or against Tenant shall constitute a default hereunder and, in addition to any other rights of the Landlord within thirty (30) days after receipt of actual notice of any of the aforesaid events; should such option be exercised, Tenant shall forthwith pay to Landlord the amount, if any, by which the remainder of the rent reserved hereunder exceeds the then reasonable rental value of the Leased Premises for the remainder of the Term of this Lease. In no event shall this Lease nor any interest therein nor any estate thereby created be assignable to or pass to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors or otherwise by operation of law without the express written consent of Landlord.
24. Default. If Tenant shall fail to pay an installment of rent or (except as otherwise stated herein) shall fail to comply with any other provision of this Lease, within ten (10) days after written notice by Landlord to Tenant (said written notice to constitute the required legal notice under Article 4701 of the Louisiana Code of Civil Procedure as hereinafter amended or replaced), provided that such written notice of nonpayment of rent has been given twice during the period of this Lease, or should Tenant abandon the Leased Premises or discontinue the use of the Leased Premises for the purposes for which rented or remove any property against which Landlord enjoys a Landlord's Lien or should Tenant make an assignment for the benefit of creditors or file a voluntary petition in bankruptcy or be adjudicated as bankrupt in an involuntary proceeding or apply for any other relief under the laws of the United States relating to bankruptcy or State laws relating to insolvency or should a receiver, or other custodian be appointed for any of Tenant's property, then, in any such events, Landlord shall have the right, at Landlord's option without putting Tenant in default and without notice of default, (a) to cancel this Lease, effective immediately or effective as of any date Landlord may select or (b) to proceed one or more times for past due installments to rent only, without prejudicing the right to proceed later for additional installments or to exercise any other remedy, or (c) to declare unpaid rent for the whole unexpired term of this Lease immediately due and payable and at once demand and receive payments of the same or (d) to have recourse to any other remedy or mode of redress to which Landlord may be entitled by law. In the event Landlord exercises the right to cancel this Lease, then (i) Landlord shall have the right, as soon as said cancellation is effective, and

tenant has vacated the Leased Premises, the Landlord may re-enter the Leased Premises and relet the same for such price and on such terms as may be immediately available, and (ii) Tenant shall be and remain liable not only for all rent payable to the date such cancellation becomes effective, but also for all damage or loss suffered by Landlord. Failure of Landlord to exercise the rights granted herein shall not be construed as a waiver of such rights and no indulgence by Landlord shall be construed as a waiver of any rights herein granted.

In the event that Landlord shall at any time terminate this Lease because of breach thereof by Tenant, then Landlord, in addition to any other remedy available to it hereunder or under the laws of this state, may recover from Tenant any damages incurred by reason of such breach, including, without limitation, the cost of recovering the Leased premises, and the worth at the time of termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved hereunder for the balance of the Lease Term or any shorter period, as Landlord may determine over the then reasonable rental value of the Leased Premises for the same period.

25. Interest. Any sum accruing to Landlord or Tenant under the terms and provisions of this Lease which shall not be paid when due shall bear interest at the rate of twelve [12%] percent per annum from the date when the same becomes due and payable by the terms and provisions hereof until paid unless otherwise specifically provided in this Lease.
26. Landlord's Right to Cure Tenant's Defaults. If Tenant fails to perform any covenant or agreement set forth herein or in any way defaults under or breaches any provision or term of this Lease and such failure, default or breach continues for ten (10) days after written notice thereof, then addition to any other right or remedy hereunder or under the laws of this State, Landlord may, but shall not be obligated to, perform such covenant or agreement or cure such default or breach and do all necessary work and make all necessary payments in connection therewith, including, without limitation, attorney's fees and disbursements, for the account, and at the expense of, Tenant. The amount of all cost and expense incurred or paid by Tenant to Landlord upon demand, together with interest at the rate of twelve [12%] per annum.
27. Assignment. Tenant shall not assign this Lease or any interest therein, or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person, without the prior written consent of Landlord. Any such assignment, occupancy or use without the prior written consent of Landlord shall, at the option of Landlord, terminate this Lease and any such purported assignment, occupancy or use shall be null and void.

A consent to one assignment, occupancy or use shall not be construed as a consent to any subsequent assignment, occupancy or use. In the case of a corporate Tenant, any transfer of this Lease by merger, consolidation or liquidation and any change in the stock, occurring in a single transaction, shall constitute an assignment for the purpose of this paragraph.

Assignment shall also be subject to confirmation of the Board of Directors of the Louisiana State Museum, which specifically reserves the right to create a new lease in the event of any such assignment or any change in use or occupancy of the premises. Tenant will not be permitted to sublet the Leased Premises.

28. Conveyance by Landlord. Landlord or its successors or assigns may, at any time during the Term of this Lease, convey its interest in the Leased Premises. From and after the effective date of the conveyance, Landlord or its successors or assigns shall be released and discharged from any and all obligations under this Lease, except those already accrued.



29. Attorney's Fees. In the event of any such action at law or in equity by Landlord against Tenant to enforce any provision or right hereunder or in any way related hereto or arising herefrom, Tenant covenants and agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees incurred therein by Landlord.
30. Waiver. No waiver of any default or breach of any covenant by either party hereunder shall be implied from any omission by either party to take action on account of such default if such default persists or is repeated. No express waiver shall affect any default other than the default specified in the waiver, and then said waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term or condition contained herein by either party shall not be construed as a waiver of any subsequent breach of same covenant, term or condition. The consent or approval by either party to or of any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar act. The receipt by Landlord of rent with knowledge of the breach of any covenant of Tenant hereunder shall not be deemed waiver of the rights of Landlord with respect to such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Landlord.
31. Notices.
- (a) Service. All notices required to be given hereunder shall be in writing. Such notices shall be sent by United States registered mail, postage prepaid, addressed to Tenant at Tenant's Address for Notices and to Landlord at Landlord's Address for Notices. Notices shall be deemed sufficiently served one (1) day after the date of the mailing thereof.
- (b) Holding Over. Any holding over after the end of the Term of the Lease, with the consent of the Landlord, shall be construed to be a lease from month to month, and shall be on the terms and conditions herein specified, so far as applicable.
- At least thirty (30) days before the last day of the Term of this Lease, Tenant shall give to Landlord notice of intention to surrender the Leased Premises on such day. Nothing contained herein shall be construed as an extension of the Term thereof, or as a consent of Landlord to any holding over by Tenant.
- All the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto; provided, however, that nothing in this paragraph shall be deemed to permit any assignment, occupancy, or use contrary to the provisions of Section 28.
32. Complete Agreement. This Lease contains all terms, covenants, conditions, warranties and agreements of the parties relating in any manner to the rental and use and occupancy of the Leased Premises. No prior agreement or understanding pertaining to the same shall be valid or of any force or effect.
33. Force Majeure. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of the other party, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the

performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this paragraph shall not operate to excuse Tenant from the prompt payment of any sums required by the terms of this Lease.

34. Miscellaneous.

- (a) Time. Time is of the essence hereof.
- (b) Captions. The captions in the Lease are for convenience only and shall not in any way limit or be deemed to construe or interpret the terms and provisions hereof.
- (c) Words and Interpretation. The table of contents and section headings contained in this Lease are for convenience only and shall not affect its interpretation. All references in this Lease to schedules, exhibits, articles, sections, subsections, paragraphs and clauses refer to the respective subdivisions of this Lease, unless such reference expressly identifies another document. The words "Landlord" and "Tenant", as used herein, shall include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine. If there be more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several.
- (d) Choice of Law and Courts. This Lease shall be construed and enforced in accordance with the Laws of the State of Louisiana and the courts located in the State of Louisiana, either State or Federal, shall have sole jurisdiction over this Lease.
- (e) Amendment. This Lease cannot be amended, altered or modified in anyway except in writing signed by the parties hereto.
- (f) No Option. The submission of this Lease for examination does not constitute a reservation of or option for the Leased Premises and this Lease becomes effective as a Lease only upon execution and delivery by Landlord, Tenant, and the Attorney General of Louisiana.
- (g) Severability. Any provision of this Lease prohibited by the laws of any Parish, City, State, Federal or other jurisdiction shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Lease.

35. Inability of Landlord to Give Possession on Commencement Date.

If the Landlord shall be unable to give possession of the Leased Premises on the date of the commencement of the term hereof by reason of the fact that the Premises have not been sufficiently completed to make the Premises ready for occupancy [providing Landlord is solely responsible for the construction of the improvements to the Premises] by reason of the holding over or retention of possession of any demand on occupancy, or for any other reason, Landlord shall not be subject to any liability for failure to give possession on said date. Under such circumstances and provided Tenant is not responsible for such delays, the rent reserved and covenanted to be paid herein shall not commence until the possession of Leased Premises is given to or the Premises are available for occupancy by, or for construction of Tenant improvements by Tenant, whichever shall occur first, and no such failure to give possession of the date of commencement of the Term shall affect the validity of this Lease or the obligation of Tenant, nor shall same be construed to extend the Term of this Lease. In the event that a construction rider is attached to this Lease Agreement, the provisions thereof shall prevail over the provisions of this paragraph where they are in conflict.

36. Additional Provisions.

- (a) Possession. Landlord will give possession of the Leased Premises to Tenant upon approval of this Lease by the Board of Directors of the Louisiana State Museum and the Attorney General of the State of Louisiana and execution by the Tenant.
- (b) Theft, Burglary, and Unauthorized Persons. Landlord shall not be liable to Tenant for losses due to theft or burglary, or for damages of any type done by unauthorized persons on the Premises unless due to Landlord's negligent act.
- (c) Guaranty of Payment and Performance. The party executing this Lease as Guarantor hereby guarantees the payment of all Minimum Rent, Percentage Rent and Additional Rent due by the Tenant hereunder promptly when due and guarantees the performance promptly when due of each other obligation of the Tenant arising under this lease, binding himself jointly, severally and in solido with the Tenant therefor and as an original promisor. The Landlord may at any time, without the consent of or notice to the Guarantor, extend the time for the payment or performance of any obligation arising hereunder, and no such action shall diminish or affect the Guarantor's obligations.

37. Lease Approval. This Lease shall not be binding on the Louisiana State Museum or the State of Louisiana unless and until it is approved by the Attorney General of the State of Louisiana.

Thus done and passed, in multiple originals, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the presence of two competent witnesses, after the reading of the whole.

**LOUISIANA STATE MUSEUM**

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

\_\_\_\_\_  
Witness

Its: \_\_\_\_\_

**TENANT:** \_\_\_\_\_

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

Its: \_\_\_\_\_

\_\_\_\_\_  
Witness

**GUARANTOR:** \_\_\_\_\_ (If applicable)

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

Its: \_\_\_\_\_

\_\_\_\_\_  
Witnesses

Approved by the Attorney General for the State of La., through \_\_\_\_\_, Special Asst. Attorney General

## **EXHIBIT A**

### **POLICY REGARDING PAST DUE RENT AND LATE CHARGES**

Rent is due on the first (1st) of each month and is considered late if not paid by the close of business on the fifth (5th) of each month. If the fifth (5th) falls on a day on which the Museum offices are closed, then payment will be considered timely if received by the Museum by 12:00 noon on its next regular day of business. If payment is not received by the fifth (5th) (or by noon on the next regular business day as described above), late charges will be assessed at the rate of One Hundred (\$100.00) dollars per month for each month's rent that is past due. For instance, if a tenant is late with his January rent, late charges of One Hundred (\$100.00) dollars per month will begin to run on January 6. If the tenant continues to fail in his obligation to pay his January rent and also fails to pay his February rent in a timely fashion, beginning on February 6, his late charges will be One hundred (\$100.00) Dollars per month (\$100.00 per month for the January late rent and \$100.00 per month for the February late rent and continuing in a like manner for any delinquent months thereafter).

Payments made by the tenant for late rent and late charges will be applied as follows:

First to any rent owed from the oldest previous month, then to late charges owed from the oldest previous month, then to the next oldest previous month's rent, then to the next oldest previous month's late charges until all previous months' rent and late charges are paid, then to the rent for the current month, then to late charges for the current month, then to the next month's rent. As an example, if payment is made on March 20 when January, February, and March rent have not been paid, payment will be applied as follows: first to January rent, then to February rent, then to late charges on the February rent, then to March rent, then to late charges on the March rent, with any remaining funds from the payment then credited to the rent for the following month[s].

NOTE: In the above paragraph 2, the word "rent" means a total of minimum, percentage, and additional rent for any individual month.

**EXHIBIT B**

**CURRENT RULES AND REGULATIONS FOR COMMERCIAL TENANTS OF THE LOWER  
PONTALBA BUILDING:**

§349. Commercial leases; New Orleans French Quarter

A. Notwithstanding any provisions of law to the contrary, and in particular the provisions of R.S. 41:1212, the board of directors of the Louisiana State Museum is authorized to lease, for any purposes other than oil, gas, or other mineral development, commercial space within or on the properties located in the New Orleans French Quarter of which the board has title to or custody or possession, without advertising for and receiving public bids for such leases, provided that such leases are negotiated for and executed according to the terms and conditions contained in this Section.

B.(1) The board shall establish a comprehensive usage plan and a lease program for the commercial space within or on the properties located in the New Orleans French Quarter of which the board has title to or custody or possession. The plan shall be in compliance with all of the following:

- (a) Be compatible with the historic nature of the museum properties.
- (b) Establish criteria for the acceptance or rejection of lease applications.
- (c) Be presented at a public meeting of the board with prior notice, by public advertisement at least once no more than ten days before such meeting is held, that such plan will be discussed at such meeting.
- (d) Be available to the public, in writing, upon request.

(2) No earlier than one month after the adoption of such plan, the board shall review applications for commercial leases at a public meeting after notice by public advertisement at least once no more than ten days before such meeting is held, that such applications will be accepted at such meeting.

(3) No earlier than one month after receiving such commercial lease applications the board shall render its decision to accept, reject, or defer such commercial lease applications at a public meeting after prior notice by public advertisement at least once no more than ten days before such meeting is held, that such decision will be rendered at such meeting.

(4) In making its decision the board shall determine all of the following:

- (a) The financial qualifications of applicants.
- (b) The compatibility of the proposed lease with the historic integrity, structure, and safety of the property, the relationship of the proposed commercial lease with other commercial leases on the property.

(c) The impact of the proposed lease on the historic character of the neighborhood in which the properties are located.

(5) The board shall fix terms and establish minimum rental fees as determined in the comprehensive usage plan.

(6) The board shall accept no applications from nor shall it approve any lease with any state official, board member or his spouse or child, or any person of which he is an officer, director, trustee, partner, or employee, or of which he has a substantial personal economic interest, as distinguished from that of a general class or general group of persons, of which he may be reasonably expected to know. The provisions of this Paragraph are illustrative and not exclusive.

Exhibit G

(7) All commercial leases approved by the board shall be reviewed by the attorney general and no lease shall be finally approved by the board unless approved by the attorney general as to form and legality.

Added by Acts 1979, No. 581, §1, eff. July 18, 1979; Acts 1997, No. 318, §1, eff. June 18, 1997; Acts 2001, No. 156, §1.

§350. Residential leases; New Orleans French Quarter; State Museum Board has title, custody, or possession

Notwithstanding any provisions of law to the contrary, and in particular the provisions of R.S. 41:1212, the board of directors of the Louisiana State Museum is hereby authorized to lease for any residential purposes, residential space within the Lower Pontalba Building of which the board has title to or custody or possession of, without advertising for and receiving public bids for such leases, provided that such leases are negotiated for and executed according to the terms and conditions set forth and contained in this Section.

(1) The board shall receive applications from private individuals only for residential leases in the Lower Pontalba Building, and shall approve or reject such applications based on the financial qualifications and prior lease experience of such applicants.

(2) Approved applications shall be placed on file according to the date received and applicants shall be shown available residential lease space according to order of receipt. Upon declination or disqualification of an applicant, the board shall show available residential lease space to the next applicant in order of receipt. The board may remove any applicant from the file who has declined the opportunity to lease on two or more occasions.

Added by Acts 1979, No. 581, §1, eff. July 18, 1979.