

**LEASE AGREEMENT  
BETWEEN CITY OF ORLANDO AND  
SALON ELYSEE, INC**

THIS LEASE AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **City of Orlando**, a municipal corporation organized and existing under the laws of the State of Florida ("Landlord"), and **Salon Elysee, Inc.**, a Florida corporation (Tenant).

**RECITALS**

- A. Landlord owns the Washington Street Parking Garage located near the intersection of West Washington Street and Orange Avenue in downtown Orlando, Florida ("Garage").
- B. Tenant desires to lease certain retail space located within the Garage from Landlord, which retail space has as its address 58 W. Washington Street, Orlando, Florida 32801, and is more specifically described in **Exhibit "A"** attached hereto and made a part of this Lease (Premises).
- C. The Premises is to be used for the operation of a full service beauty salon (the business is herein generally referred to as the "Salon").
- D. Landlord is willing to enter into a lease with Tenant for the Premises.
- E. For such purposes and based upon this understanding, Landlord and Tenant have agreed that Landlord will lease the Premises to Tenant, pursuant to the terms and conditions hereof.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Tenant hereby agree as follows:

**ARTICLE 1. GRANT AND TERM**

**1.1 Recitals.** The foregoing recitals are true and correct and are incorporated into and made a part of this lease ("Lease") the same as if fully set forth herein.

**1.2 Premises and Parking.** Landlord does hereby lease, let and demise unto Tenant and Tenant does hereby lease from Landlord the Premises containing approximately eight hundred twenty-one (821) gross square feet, along with a right to use the Common Areas, as Landlord may designate from time to time. Tenant shall have, hold and use the Premises as Tenant for and during the term of the Lease in accordance with and upon the covenants, agreements, promises and conditions stipulated and agreed upon between the parties as set out herein. Tenant acknowledges it has fully inspected and accepts the Premises in its present "AS IS" condition. Tenant is encouraged to enter into an agreement with the City's Parking Division to accommodate the needs of patrons and customers using the Salon, for parking charged at rates offered from time to time to the general public.

**1.3 Term of Lease.** The parties agree that the term of this Lease shall be for three (3) years commencing on May 1, 2016 (Commencement Date), and ending on April 30, 2019 (Expiration Date), unless extended or terminated as provided herein.

**1.4 Renewal of Lease.** So long as Tenant has abided by all terms and conditions of this Lease during the initial Lease Term or any renewal term as applicable, the Lease may be extended by agreement of the parties for two (2) terms of one (1) year each on terms acceptable to each party in its sole and absolute discretion. In order to exercise an option to extend, Tenant shall give Landlord written notice thereof no more than one hundred twenty (120) days and no less than ninety (90) days prior to the end of the term to be extended. Such renewal(s) shall be evidenced by a letter sign by Tenant and the Landlord's Real Estate Manager.

**1.5 Quiet Enjoyment.** Landlord covenants that Tenant is entitled to the quiet, peaceful enjoyment and use of the Premises during the term and any renewal term of this Lease, so long as Tenant shall faithfully keep, perform and fulfill all covenants, promises and agreements of this Lease.

**1.6 Landlord's Access to Premises.** Notwithstanding the foregoing, Landlord and Landlord's agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, performing any services required of Landlord, showing the same to prospective purchasers, lenders, or tenants, making such alterations, repairs, improvements or additions to the Premises or the Garage, as Landlord may reasonably deem necessary or desirable and for installing, using and maintaining utilities, services, pipes and conduits through the Premises and/or other premises in the Garage, so long as there is no material adverse effect on Tenant's use of the Premises. Landlord at any time, on or about the Premises or the Garage may place any ordinary "For Sale" signs, and Landlord may at any time during the last ninety (90) days of the term hereof place on or about the Premises any ordinary "For Lease" signs and show the Premises to potential new tenants or purchasers during that time period.

## **ARTICLE 2. RENT, TAXES, UTILITIES & SECURITY DEPOSIT**

**2.1 Monthly Rent.** Beginning on May 1, 2016 ("Commencement Date") and continuing throughout the term of this Lease, Tenant shall pay to the Landlord, without prior demand and without any deduction or set-off, a combination of Monthly Rent and prorated Leasehold Tax, plus applicable Florida state sales tax. Tenant shall pay to Landlord rent during the first year of the term of this Lease the amount of One Thousand One Hundred Eighty Eight and 19/100 Dollars (\$1,188.19) per month (Monthly Rent), plus leasehold and sales tax, beginning on the Commencement Date and continuing on the first day of each and every calendar month thereafter during the first year of the Lease. The initial rental amount has been calculated on the basis of Seventeen and 37/100 Dollars (\$17.37) per gross square feet for eight hundred twenty-one (821) gross square feet within the Premises. At the beginning of the second year of the Term of the Lease and each anniversary thereafter, the rent will increase five percent (5%) per year over the amount paid in the previous year. Should the term of this Lease be renewed, the Monthly Rent will also increase five percent (5%) per year in the same manner as during the initial term. TIME IS OF THE ESSENCE of each provision of this Lease relating to the dates when Monthly Rent and Additional Rent come due.

**2.2 Leasehold Tax.** In addition to the Monthly Rent, Tenant shall pay to Landlord the Leasehold Tax assessed against the Premises. The Leasehold Tax is an ad valorem tax assessed on the Premises by the Orange County Property Appraiser. The annual Leasehold Tax assessed on the Premises shall be prorated on a monthly basis and paid with the Monthly Rent in the initial amount shown below and held in a separate account by Landlord for payment of Tenant's tax obligation at such time prescribed by the Orange County Tax Collector. The amount collected is an estimate of the taxes owed by Tenant and is subject to adjustment based upon the actual Leasehold Tax due. In the event the amount of Leasehold Tax paid by Tenant to Landlord exceeds the actual tax liability, the excess tax paid by Tenant may be refunded to Tenant or retained for the succeeding year tax liability, whichever is deemed appropriate exclusively by Landlord. In the event the amount of Leasehold Tax paid by Tenant to Landlord is less than the actual tax liability, Tenant shall pay the balance due to Landlord no later than ten (10) calendar days from Tenant's receipt of written notice from Landlord that the balance is due. The prorated Leasehold Tax is calculated as follows, but is subject to change based upon the Property Appraiser's annual assessment:

$$\$1,944.00 \text{ (Estimated leasehold tax liability)} \div 12 \text{ months} = \$162.00 \text{ per month}$$

**2.3 Florida State Sales and Other Taxes.** Tenant shall be responsible for the payment of all applicable sales and use taxes (or any excise taxes imposed in lieu thereof) which may now or hereafter be levied by the State of Florida or any other governmental unit on all payments due under this Lease that may be classified as rent by such taxing authorities. Tenant shall pay such taxes to Landlord at the same time that rent payments or other payments classified as rent are made by Tenant to Landlord. The current State of Florida Sales Tax in Orange County, Florida is 6.5%. Tenant shall also pay all applicable personal property taxes and fees relating to the Premises, and any taxes on or relating to the Leasehold Improvements, fixtures and equipment located on the Premises, subject to any exemptions from the payment of such taxes under Florida Law.

**2.4 Returned Check Fee.** If any check for rent or other sums due hereunder received by Landlord is returned by a financial institution for insufficient funds, in addition to any other right or remedy available to Landlord as a result of such default, Tenant shall pay Landlord a returned check fee in the maximum amount allowed by Florida law to reimburse Landlord for the costs and expenses associated with such returned check. The current amount allowed is Forty Dollars (\$40.00).

**2.5 Late Payments.** All Monthly Rental payments shall become due and payable without notice or demand on the due date, but the Tenant shall not be deemed to be in default under this Lease unless a payment remains unpaid for more than ten (10) days after its due date. Any Monthly Rent payment made more than five (5) days after the due date (due date shall be as of 5:00 p.m. of the first day of the month regardless of holidays or weekends) shall be accompanied by a late charge of Twenty-five and No/100 Dollars (\$25.00) on the sixth (6<sup>th</sup>) day after the due date, plus an additional Five and No/100 Dollars (\$5.00) per day for each day thereafter until payment is received. Any late charges becoming due under this paragraph if not paid with the late rent payment shall be added to and become due with the next Monthly Rent payment.

**2.6 Method of Payment.** All rental payments shall be paid in check, cash, cashier's check, or money order to City of Orlando and mailed or hand-delivered to the Real Estate Division Manager, City of Orlando, 4<sup>th</sup> Floor, City Hall, 400 South Orange Avenue, Orlando, Florida 32801. In the event two (2) payments received by Landlord are returned by the bank for insufficient funds

within a twelve (12) month period, all future payments must be paid in cash, cashier's check or money order.

**2.7 Additional Rent.** Unless otherwise expressly provided, all monetary obligations of Tenant to Landlord under this Lease, of any type or nature, other than Monthly Rent, shall be generally known as Additional Rent. Except as otherwise provided, all Additional Rent payments are due and payable ten (10) days after delivery of an invoice and shall be collectible and otherwise enforceable on the same terms and conditions as Monthly Rent.

**2.08 Utilities and Related Fees.** Tenant shall be liable for and shall pay directly all connection fees, upgrades and other charges, rents and fees (together with any applicable taxes or assessments thereon) when due for water, gas, electricity, air conditioning, heat, sewer, telephone, satellite and cable television, stormwater fees and any other utility charges or similar items in connection with the use or occupancy of the Premises during the Term (collectively, the "Utility Charges"). Tenant shall be responsible for 100% of the Utility Charges for the Premises. Landlord shall not be responsible or liable in any way whatsoever for the impairment, interruption, stoppage, or other interference with any utility services to the Premises. In any event no interruption, termination or cessation of utility services to the Premises shall relieve Tenant of its duties and obligations pursuant to this Lease, including, without limitation, its obligation to pay all rent as and when the same shall be due hereunder.

**2.09 Security Deposit.** A Security Deposit of Two Thousand Fifty-two and 50/100 Dollars (\$2,052.50) has been paid by Tenant to Landlord at the time of the execution of this Lease. This Security Deposit shall be held by Landlord as security for the performance of all obligations of Tenant under this Lease. While Landlord holds the Security Deposit, Landlord shall have no obligation to pay interest thereon, unless required to do so by Florida law, and shall have the right to commingle the Security Deposit with Landlord's other funds. Landlord shall have thirty (30) days after such time when it should be paid, to return the Security Deposit or notify Tenant of Landlord's intention to impose a claim against the Security Deposit for damages, unpaid rent or other amounts due under the Lease. However, if the determination of any amount to be paid by Tenant to Landlord, or of Tenant's pro rata share of real estate taxes as set forth in this Lease, or the like, is not available at the expiration or earlier termination of the Lease, Landlord may retain such portion of the Security Deposit as Landlord believes in the exercise of Landlord's good faith judgment is an appropriate reserve against such future liability of Tenant and return only the balance of such deposit pending the final determination and payment of all such amounts owed by Tenant to Landlord.

Should the Landlord apply the entire Security Deposit, or any portion thereof, against amounts owed by Tenant in accordance with the provisions hereof, Tenant shall forthwith upon demand pay to Landlord an amount sufficient to restore the Security Deposit to the required amount specified herein. Landlord shall have the same rights and remedies for the nonpayment by Tenant of any amounts due on account of the Security Deposit as Landlord has hereunder for the failure of Tenant to pay rent.

### **ARTICLE 3. CONDUCT OF BUSINESS BY TENANT**

**3.1 Intended Use of Premises.** Tenant may use the Premises for the Intended Use only, which shall be as a full-service hair salon and spa, doing business under Tenant's trade name of

“Salon Elysee” in compliance with the City of Orlando Land Development Code. The sale or consumption of alcoholic beverages, package or otherwise is prohibited. No other uses shall be permitted without the prior written consent of Landlord. Tenant shall continuously use and occupy the Premises only for the Intended Use, in keeping with first-class standards of quality, respect, decorum, integrity, finesse, and stability. Tenant shall not use, permit or suffer the use of the Premises for any other purpose. Tenant shall conduct its business in the Premises solely under Tenant's trade name. Nothing contained in this Lease shall be construed as giving Tenant an express or implied exclusive use in the Garage, as any such provisions are for the benefit of Landlord in marketing the Garage. Tenant shall have no right to require that Landlord enforce any exclusive uses within the Garage, should Landlord elect not to do so. Tenant acknowledges however that there may be provisions in other lease agreements within the Garage, which grant exclusive use rights, and the provisions of this Lease and others for space within the Garage concerning the Intended Uses are in the nature of restrictive covenants running with the land.

**3.2 Conduct of Business.** Beginning no later than sixty (60) days after the Commencement Date and continuing throughout the Lease Term, Tenant shall actively and continuously conduct its business upon one hundred percent (100%) of the Premises for at least a minimum of eight (8) hours per day, five (5) days each week and four (4) hours each Saturday. ("**Minimum Business Hours**"). Tenant shall also post the hours the Premises will be open for business. Interruption of Tenant's business because of any act of war, strike, fire, the elements, governmental action, or other cause beyond the reasonable control of Tenant shall not constitute a default under this article, but no interruption of business shall affect Tenant's responsibility to pay any form of rent due under this Lease. Tenant shall conduct its business in strict conformance with any rules and regulations promulgated by Landlord from time to time sometimes herein referred to as the “Rules and Regulations”.

**3.3 Quality of Products and Service.** Tenant recognizes the quality of items sold and services performed at the Salon is a matter of highest concern and is the essence of this Agreement. Tenant shall serve only high quality products and provide a standard of service and quality comparable to high quality establishments in the Orlando area. All goods and services sold or offered for sale at the Salon shall conform in all respects to all applicable federal, state, and county health statutes, codes, ordinances and regulations. All products offered for sale at the Salon shall be stored and handled with due regard for sanitation.

#### **3.4 Personnel.**

A. If at any time Landlord finds the actions, performance, or conduct of any of Tenant's employees to be harmful or detrimental to the operation, image, or success of the Garage, then Landlord shall advise Tenant of the specific circumstances and the parties shall attempt to mutually resolve the situation. If resolution cannot be reached, Landlord may require removal of the employee from the Salon.

B. Tenant will maintain high standards of quality in its hiring and training practices. Tenant agrees that its employees shall be of sufficient number so as to properly conduct operations at a high standard of service quality. Tenant's employees shall maintain a high standard of grooming, uniform, and conduct. Employees of Tenant shall be neatly attired in uniforms.

### **3.5 General Use Requirements**

A. Tenant shall procure and maintain all permits, licenses and approvals, and pay all taxes, fees and other charges required for the transaction of its business on the Premises, and otherwise use the Premises in compliance with all applicable laws, rules and regulations of federal, state, county, municipal and all other regulatory authorities.

B. Tenant shall comply with all applicable present and future federal, state, and local laws, ordinances, rules, and regulations relating to the operation of a beauty salon such as authorized under the Intended Use, including, but not limited to, the Florida Building Code (FBC), the Americans with Disabilities Act (ADA), and all health laws, rules and regulations. Tenant shall not allow any unlicensed persons to perform services for which licensure is required. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Tenant's responsibility.

C. Tenant shall not commit or suffer any waste and will not make any use of the Premises which would constitute a nuisance or which would violate any municipal, county, state or federal statute, ordinance, rule or regulation.

D. Tenant shall not use the Premises for any purpose that will invalidate any policy of insurance, or increase any premium to be paid, now or hereafter written on any improvements located on the Premises, Common Areas or any other part of the Garage.

E. Tenant shall use as its advertised business address the address of the Premises. Tenant shall not use the Premises for any purpose other than as the address of the business to be conducted by Tenant in the Premises, and Tenant shall not acquire any property right in or to any name, which contains the name of the Garage. Any permitted use by Tenant of the name of the Garage during the term of this Lease shall not permit Tenant to use, and Tenant shall not use the name of the Garage after the termination of this Lease at any other location. Tenant's agreement in this regard shall survive termination or expiration of this Lease.

## **ARTICLE 4. COMMON AREAS**

**4.1 Common Areas.** The term "Common Areas" for purposes of this Lease shall mean all areas and facilities outside the Premises and premises of other tenants within the Garage but otherwise within the exterior boundary lines of the Garage, as well as sidewalk areas fronting the Premises to the extent not otherwise excluded by this Lease that are designated by Landlord from time to time for the general non-exclusive use of Landlord, Tenant and other tenants of the Garage and their respective employees, suppliers, shippers, customers and invitees, including but not limited to common entrances, corridors, stairways and stairwells, public restrooms, elevators and escalators, loading and unloading areas, trash areas, sidewalks, walkways, ramps, landscaped areas and decorative walls.

**4.2 Common Areas, Maintenance, Rules and Regulations.** Tenant agrees to abide by and conform to the Rules and Regulations of Landlord as promulgated from time to time with respect to the Garage and Common Areas, and to cause its employees, suppliers, shippers, customers, and invitees to so abide and conform. Landlord or such person(s) as Landlord may appoint shall have exclusive control, management and be responsible for maintenance of the

Common Areas. Landlord shall also possess the right, from time to time, to modify, amend and enforce the Rules and Regulations. Landlord shall not be responsible to Tenant for noncompliance with the Rules and Regulations by other tenants, their agents, employees and invitees of the Garage.

**4.3 Common Areas-Changes.** Landlord shall have the right, in Landlord's sole discretion and without the consent of any tenant, from time to time:

A. To make changes to the Garage interior and exterior and Common Areas, including, without limitation, changes in the location, size, shape, number and appearance thereof, including but not limited to windows, stairways, air shafts, elevators, escalators, restrooms, entrances, loading and unloading areas, ingress, egress, direction of traffic, decorative walls, landscaped areas and walkways;

B. To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

C. To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Garage or any portion thereof; and

D. To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Garage as Landlord may, in the exercise of sound business judgment, deem to be appropriate.

## **ARTICLE 5. IMPROVEMENTS**

**5.1 Tenant Improvements.** At its sole cost and expense and only after the prior written approval of Landlord, Tenant will make such improvements, alterations, remodeling, renovations, repairs, or additions ("Tenant Improvements") to the Premises as necessary for the utilization of the Premises, for the purposes described in **Article 3** hereof. Unless otherwise agreed to by the parties, Tenant shall be solely responsible for the payment of all Tenant Improvements and remodeling to the Premises, including, but not limited to, design and construction costs, permit and impact fees and furniture, fixtures and equipment. Prior to commencing construction of Tenant Improvements and within five (5) days of the Commencement Date, Tenant shall submit two (2) sets of plans and specifications of the proposed Tenant Improvements to Tenant's Real Estate Division Manager. The Real Estate Division Manager shall have twenty business (20) days from receipt of the plans and specifications to either approve, deny or request changes to the plans, and the failure to do so within such time period shall constitute approval of the plans. Landlord's review (and approval or denial) of such plans is based upon its ownership of the Premises and this Lease, and not in its capacity as a governmental or regulatory body. In addition to any of the other requirements of the Lease, Tenant shall also submit all required documents, drawings, plans, specifications, etc., to, and obtain all required license(s), permit(s), and approval(s), from the appropriate governmental or regulatory authority having jurisdiction thereof, including, but not limited to, the City of Orlando acting in its governmental or regulatory capacity, as necessary for the construction and operation of Tenant's business authorized as the Intended Use on the Premises. Tenant shall not commence construction of the Tenant Improvements until receiving all required approvals. Upon commencement of construction, failure to continuously, substantially and expeditiously construct

the Tenant Improvements for a period in excess of ten (10) days shall be a default under this Lease at Landlord's election.

**5.2 Removal of Tenant Improvements.** Any Tenant Improvements, which constitute fixtures or whose removal would cause damage to the Premises shall remain a part of the Premises at Lease termination, and become the property of Landlord, at Landlord's election, with no compensation due to Tenant. In the alternative, at Landlord's direction, Tenant shall remove any or all such improvements as directed by Landlord, prior to expiration of the Term and deliver the Premises to Landlord in "broom-clean" restored and repaired condition and as otherwise required in this Lease.

**5.3 Personal Property, Furniture, Equipment and Fixture Removal.** Tenant may furnish and install, at its sole cost and expense, all personal property, furniture, and equipment reasonably necessary for the operation of Tenant's business (PPF & E). Tenant shall keep the PPF&E in good condition and repair, normal wear and tear excepted. To the extent that Tenant has paid for the PPF&E, such PPF & E shall remain the property of Tenant. For any PPF&E for which Tenant has paid, at the expiration or earlier termination of the Lease, Tenant shall remove the PPF & E from the Premises and repair any damage to the Premises resulting from such removal. All equipment, which is affixed to the Premises shall be considered fixtures for all purposes and shall remain on the Premises at City's election and become the property of City upon the expiration or termination of the Lease, without compensation to Tenant. Any PPF & E, whether or not affixed to the Premises, which are not removed on or before the Expiration Date, shall be considered abandoned and automatically become the property of City, at City's election.

Tenant agrees that it shall not remove any PPF&E while in default under the terms of this Lease and that such removal shall be a material breach of this Lease. At any other time PPF&E may not be removed from the Premises without City's consent, which may be withheld in City's sole discretion. Tenant shall give written notice of any request to City for approval to remove PPF&E. City shall have ten (10) business days after receipt of Tenant's notice to advise Tenant whether an additional acceptable security deposit shall be required in order to obtain City's consent. If City does not respond within the stated time, no additional security deposit shall be required and consent shall be deemed granted. Tenant's failure to comply with the notice requirement, coupled with subsequent removal of any property shall be a material default in this Lease.

**5.4 Signs, Store Front.** Tenant shall not, without Landlord's prior written consent: (a) make any changes to or paint the store front; (b) install new or change out any exterior lighting, decorations or paintings; or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Premises except upon prior written consent of Landlord, which may be withheld for any reason in its sole discretion. All signage is subject to the sign regulations of Landlord, the Downtown Development Board and the Appearance Review Officer of the City of Orlando. Prior to the installation of any signs, Tenant shall deliver to Landlord for its review and written approval a sketch of Tenant's proposed sign rendering drawn to scale. Since the Garage is public property owned by Landlord, political campaign signs are prohibited on the Premises pursuant to Section 64.252, City Code. All signs shall be kept in good condition and in proper operating order at all times.



## **ARTICLE 6. MAINTENANCE, REPAIR AND CASUALTY**

### **6.1 Maintenance and Repair of Premises by Tenant.**

A. General Maintenance Responsibilities. At its own expense, Tenant shall at all times keep in good order, condition and repair and in a reasonably satisfactory condition of cleanliness, the Premises and all exterior entrances, exterior lighting and other improvements made by Tenant, plate glass and other windows to the exterior of the Premises, including those adjacent to the Common Areas, glass and show moldings, partitions, doors, floor surfaces, fixtures, light bulbs, ballasts, appliances, furniture, other equipment and appurtenances thereof, including reasonable periodic interior painting of the Premises. Tenant shall also maintain and repair the plumbing, heating, ventilation and air conditioning system (HVAC), serving the Premises. Any repairs, replacements or maintenance shall be performed in a good and workmanlike manner using contractors licensed in the State of Florida approved by Landlord in its sole judgment, with materials of equal or better quality and utility as existed after Tenant's completion of Tenant's work at the time of its occupancy of the Premises.

B. Fire Safety Equipment. Tenant shall install and maintain fire extinguishers, sprinkler systems and other fire protection devices as may be required from time to time by any agency having jurisdiction of such matters, or the insurance underwriters insuring the Garage.

C. Janitorial Service. Tenant shall provide janitorial service to the Premises on a regular basis at its sole expense.

D. Pest Control. Tenant, at its sole expense, shall engage exterminators to control vermin and pests on a monthly basis. Such extermination services shall be supplied in all areas where food is prepared, dispensed or stored and in all areas where trash is collected and deliveries are made.

If (a) Tenant does not maintain and repair the Premises as required hereunder to the reasonable satisfaction of Landlord within ten (10) calendar days' notice (or such shorter period as may be required in an emergency), or (b) Landlord, in the exercise of its sole discretion, determines that emergency repairs are necessary or (c) repairs or replacements to the Premises are otherwise made necessary by any act, omission or negligence of Tenant, its employees, subtenants, assignees, concessionaires, contractors, invitees, licensees or visitors, then in any of such events Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay as Additional Rent Landlord's cost for making such repairs plus fifteen percent (15%) for overhead, upon presentation of a bill. All bills shall include interest at the highest rate allowed by law from the date such repairs were billed by the contractor(s) making such repairs.

**6.2 Maintenance and Repair of Premises, Common Areas and Garage by Landlord.** Landlord shall maintain and repair the roof, building foundation, and structural integrity of the Garage and generally the Common Areas except as otherwise provided herein. Within a reasonable period after receipt of written notice from Tenant, Landlord shall make necessary structural repairs to the exterior walls, roof, foundations, load-bearing items, plumbing, pipes, and conduits located outside the Premises and/or in the Common Areas. Landlord shall not be required to make any

repairs made necessary by any act, omission or negligence of Tenant, any of Tenant's concessionaire, their respective employees, agents, invitees, licensees, visitors and contractors.

**6.3 Casualty Damage to Either Premises or Garage.** If at any time during the term of this Lease the Garage is damaged by fire or other casualty, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense), which prevents Tenant from making substantial use of the Premises, Landlord may at Landlord's option either (i) repair such damage to the Garage, excluding the Premises and Tenant's fixtures, equipment or any other Tenant Improvements, in a reasonable manner and time at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and terminate this Lease as of the date of the occurrence of such damage, in which event this Lease shall terminate as of that date. In the event Landlord repairs or restores the Garage pursuant to the provisions of this Section, and any part of the Premises is unusable prior thereto (including loss of use due to loss of access or essential services), the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated, provided (1) the damage was not the result of the negligence or malicious act of Tenant, and (2) such abatement shall only be to the extent the operation and profitability of Tenant's business as operated from the Premises is adversely affected. Except for the abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration. Landlord and Tenant agree that Landlord shall not be responsible in any way for costs, expenses or losses of Tenant, including, but not limited to, costs of relocation, replacement premises, or uninsured or underinsured loss of or damage to contents, improvements, betterments or equipment. If Landlord shall not complete the restoration and repair within three (3) months after such occurrence, Tenant may at Tenant's option cancel and terminate this Lease by giving Landlord written notice of Tenant's election to do so at any time prior to the commencement or completion, respectively, of such repair or restoration. In such event this Lease shall terminate as of the date of such notice, which shall be treated in the same manner as if the term of this Lease expired on that same date. Tenant agrees to cooperate with Landlord in connection with any such restoration and repair.

## **ARTICLE 7. INSURANCE AND INDEMNITY**

**7.1 General Liability Insurance.** Tenant agrees to maintain in full force and effect from the date upon which Tenant first enters the Premises for any reason and throughout the term of this Lease, and thereafter so long as Tenant occupies any part of the Premises, a nondeductible policy of general liability insurance. This insurance shall be written on an occurrence type policy and shall protect the Tenant and the Landlord against all claims arising from bodily injury, sickness, disease, or death of any person or damage to property of others or the owner arising out of any act or omission of the tenant, its agents, employees or subcontractors. This policy shall also contain a contractual liability endorsement to insure the contractual liability assumed by the contractor under the paragraph 7.7 entitled Indemnification.

The liability limits shall not be less than:

Bodily Injury and Property Damage - \$1,000,000 combined single limit each occurrence.

**7.2 Property Insurance.** Tenant shall maintain property insurance, including fire and extended coverage, insuring against damage caused by fire, vandalism, wind, and water, for the replacement cost of Tenant Improvements located on the Premises, and all personal property owned or entrusted to Tenant.

**7.3 Workers' Compensation/Employer Liability Insurance.** Tenant shall maintain Workers' Compensation Coverage to the extent required by law.

**7.4 Insurance Policy Requirements.** All policies shall be non-cancelable and non-amendable with respect to Landlord and Landlord's said designees, except after thirty (30) days prior written notice to Landlord. Tenant shall require that Landlord, its elected and appointed officials, officers, agents, employees, successors and assigns, be named as additional insureds on all insurance policies with the exception of workers' compensation, with the broadest form of such coverage from time to time available in the area in which the Premises are located, for including but not limited to all matters arising out of the ownership, use, occupancy or maintenance of the Premises. Duplicate original policies of insurance evidencing the required coverage shall be delivered to Landlord at least ten (10) days prior to the time Tenant first enters the Premises for any reason, along with evidence of premium payment. Tenant shall also furnish Landlord evidence of renewals of each such policy on an annual basis, no less than thirty (30) days prior to the expiration thereof. Landlord reserves the right to modify any aspect of the insurance requirements, including the addition of new types of coverage, as the result of reasonable and prudent risk management review of the activities upon or associated with the Premises. Tenant shall notify Landlord in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) calendar days prior to the effective date of said action. All insurance policies shall be primary and issued by companies with a Financial Rating of "A-" or better and a Financial Size Category of "Class V" or higher according to the most current edition of Best's Insurance Reports, which are licensed and authorized to do business under the laws of the State of Florida. Notwithstanding Landlord's requirement that Tenant obtain the foregoing insurance coverage, Landlord has not thereby waived its sovereign immunity protections allowed to Landlord under Florida law.

**7.5 Landlord's Right to Obtain Insurance:** If Tenant fails to obtain the insurance coverage or fails to provide certificates and endorsements as required by this Lease, Landlord may, at its option, obtain such insurance for Tenant. Tenant shall pay, as Additional Rent, the reasonable cost thereof together with a twenty-five percent (25%) service charge, even if Tenant later produces evidence that it had insurance in effect at all times. The failure to provide the evidence of insurance in the manner required in this Lease shall be sufficient basis for Landlord to obtain the required insurance coverage and charge Tenant as authorized herein.

**7.6 Indemnification.** Tenant shall indemnify Landlord, its elected and appointed officials, officers, agents, employees and hold them harmless from any suits, actions, damages, liability, and expenses in connection with loss of life, bodily or personal injury, property damage or otherwise arising from or out of any occurrence in, on, at, or from the Premises, or the occupancy or use by Tenant of the Premises, Common Areas, Garage, sidewalks adjacent thereto or any part thereof or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, invitees, licensees, concessionaires and any other person or entity for whose acts Tenant may be responsible. This indemnity and hold harmless agreement shall include indemnity resulting from allegations of Landlord's own negligent acts, and against all costs, expenses, and liabilities, including attorney's fees incurred by Landlord, its elected and appointed

officials, officers, agents, employees in connection with any claim, action, trial, appellate, bankruptcy court or probate proceedings related thereto. If any such action or proceeding is instituted against Landlord, its elected and appointed officials, officers, agents, employees, Tenant, upon written notice from Landlord, will defend such action or proceeding by counsel approved in writing by Landlord, such approval not to be unreasonably withheld or delayed.

**7.7 Tenant's Risk.** To the maximum extent this agreement may be made effective according to law, Tenant agrees to use and occupy the Premises at Tenant's own risk, and Landlord shall have no responsibility or liability for any loss or damage to fixtures or other personal property of Tenant, or for any loss or damage resulting to Tenant or those claiming by, through, or under Tenant, for any reason including but not limited to breaking, bursting, stopping, or leaking of water, gas, sewer, or steam pipes. The terms of this Section shall be applicable regarding all matters, transactions and things occurring from and after the execution of this Lease and until the end of the term of this Lease, and during such further period as Tenant may use or be in occupancy of any part of the Premises.

**7.8 Injury Caused By Third Parties.** To the maximum extent this agreement may be made effective according to law, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through, or under Tenant, for any loss or damage that may be occasioned by or through the actions or omissions of persons using, occupying, or visiting the Premises.

**7.9 Waiver of Subrogation.** Landlord and Tenant shall have no liability to one another, or to any insurer, by way of subrogation or otherwise, on account of any loss or damage to their respective properties, the Premises or the contents thereof or the Garage, regardless of whether such loss or damage is caused by the negligence of Landlord or Tenant, arising out of any of the perils or casualties insured against by the property insurance policies carried, or required to be carried, by the parties pursuant to this Lease. The insurance policies obtained by Landlord and Tenant pursuant to this Lease shall permit waivers of subrogation, which the insurer may otherwise have against the non-insuring party. In the event the policy or policies do not allow waiver of subrogation prior to loss, either Landlord or Tenant shall, at the request of the other party, deliver to the requesting party a waiver of subrogation endorsement in such form and content as may reasonably be required by the requesting party or its insurer. For purposes of interpreting this subrogation provision, the terms "Landlord" and "Tenant" shall include elected and appointed officials, officers, agents, employees, contractors, subtenants, servants, licensees, concessionaires and invitees, any of whom may be responsible for any loss.

## **ARTICLE 8. DEFAULT**

**8.1 Events of Default.** The occurrence of one or more by Tenant of the following shall constitute a material event of default ("Event of Default") under this Lease:

A. Failure to pay Monthly Rent within ten (10) days of its due date, without notice from Landlord;

B. Failure to pay any Additional Rent within ten (10) days after written notice that it is due;

C. Failure to provide evidence of required insurance coverage under this Lease within one (1) day of written demand.

D. Failure to perform any other covenant contained herein on its part to be observed, for ten (10) days after receipt of written notice from Landlord to Tenant of such breach; provided, however, that if the nature of Tenant's noncompliance is such that more than ten (10) days are reasonably required for its cure, Tenant shall not be deemed to be in default if Tenant commenced such cure within the ten (10) day period and thereafter diligently pursues such cure to completion;

E. Failure to conduct business during the Minimum Business Hours; or

F. Being made (i) a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto [unless, in the case of a petition filed against Tenant, and the same is not dismissed within sixty (60) days], (ii) having a trustee or receiver appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iii) suffering an attachment, execution or other judicial seizure of substantially all of its assets located at the Premises or of its interest in this Lease, where such seizure is not discharged within thirty (30) days; or

G. Vacation or abandonment of the Premises including any failure to occupy the Premises for a continuous period of ten (10) days or more, whether or not the rent is paid.

**8.2 Default Remedies.** Upon the occurrence of any Event of Default set forth in this Lease, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand:

A. Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and, if Tenant fails to surrender the Premises, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises, by changing locks if necessary, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Premises without being liable for prosecution of any claim for damages. Upon the termination of this Lease, in addition to all unpaid rentals and other monetary obligations of Tenant to Landlord, Landlord will be entitled to recover, not as rent or a penalty but as compensation for Landlord's loss of the benefit of its bargain with Tenant, the difference between (i) an amount equal to the present value of the rental and other sums that this Lease provides Tenant will pay for the remainder of the term hereof, and (ii) the present value of the net future rentals for such period that with reasonable efforts could be collected by Landlord by reletting the Premises. For purposes of determining what could be collected by Landlord by reletting under the preceding sentence, it will be assumed that Landlord is not required to relet when other comparable space in the Garage Center is available for lease and that Landlord will not be required to incur any cost to relet, other than customary leasing commissions.

B. Landlord may relet the Premises on behalf of Tenant and receive directly the rent by reason of the reletting, but the failure to so relet shall not reduce Tenant's liability for rent and other charges or for damages. Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of any reletting of the Premises; further, Tenant agrees to reimburse Landlord for any expenditures made by it for remodeling or repairing in order to relet the Premises. In connection with any such reletting, Landlord will not be obligated to incur any cost to relet, other than customary

leasing commissions, will not be obligated to relet for less than the then market value of the Premises or to relet the Premises when other comparable rental space in the Garage is available for Lease, and may relet the Premises for a term to expire at the same time as, earlier than, or subsequent to, the expiration of the term hereof and/or relet all or any portion of the Premises as a part of a larger area. Tenant may retain the excess, if any, of the rent earned from reletting the Premises over the rentals specified in this Lease.

C. Enter upon the Premises and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease; further, Tenant agrees that Landlord shall not be liable for any damages resulting to Tenant from effecting compliance with Tenant's obligation under this subparagraph caused by the negligence of Landlord or otherwise.

D. Recover from Tenant from time to time and Tenant shall pay to Landlord upon demand, whether or not Landlord has relet the Premises or terminated this Lease, (i) such expenses as Landlord may incur in recovering possessions of the Premises, terminating this Lease, placing the Premises in good order and condition and altering or repairing the same for reletting; (ii) all other costs and expenses (including brokerage commissions and legal fees) paid or incurred by Landlord in exercising any remedy or as a result of the event of default by Tenant; and (iii) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result from such failure.

E. Exercise in addition to the foregoing any and all other rights and remedies available to Landlord, according to the laws of the State of Florida

## **ARTICLE 9. TERMINATION FOR CONVENIENCE**

This Lease may be terminated by either party, at its convenience, upon ninety (90) calendar-days' prior written notice to the other.

## **ARTICLE 10 - EMINENT DOMAIN**

**10.1 Rights of Termination for Taking.** If the Premises, or such portion thereof as may render the balance (if reconstructed to the maximum extent practicable under the circumstances) unsuitable for Tenant's purposes, shall be taken by condemnation or right of eminent domain, or by purchase in lieu thereof, either Landlord or Tenant shall have the right to terminate this Lease by notice to the other of its desire to do so. Further, if so much of the Garage shall be taken such that continued operation of the Garage would not be economically feasible in Landlord's sole and exclusive judgment, Landlord shall have the right to terminate this Lease by giving notice to Tenant, without compensation to Tenant.

**10.2 Payment of Award.** Landlord shall have and hereby reserves, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Garage site, the Premises and all improvements thereto, the building in which the Premises are located, and the leasehold

interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, damage, or destruction.

**10.3 Abatement of Rent.** In the event of any taking of the Premises, the Monthly Rent, or a fair and just proportion thereof, according to the nature and extent of the damage sustained, shall be suspended or abated, as appropriate and equitable under the circumstances.

## **ARTICLE 11. GENERAL PROVISIONS**

**11.1 Assignment and Subletting.** Neither Tenant nor Tenant's legal representatives or successors in interest by operation of law or otherwise may effectuate a Transfer of this Lease, without Landlord's written consent, which may be withheld in Landlord's sole discretion. For purposes of this Lease, "Transfer" shall mean any of the following: (a) an assignment or sublease of this Lease; (b) any transfer of control of Tenant, which shall be defined as any issuance or transfer of stock in any corporate tenant or subtenant or any interest in any non-corporate entity tenant or subtenant, by sale, exchange, merger, consolidation, option agreement, operation of law, or otherwise, or creation of new stock or interests, by which an aggregate of thirty percent (30%) or more of Tenant's stock or equity interests shall be vested in one or more parties who are not stockholders or interest holders as of the Lease Commencement Date, or any transfer of the power to direct the operations of any entity (by equity ownership, contract, or otherwise), to one or more parties who are not stockholders or interest holders as of the Lease Commencement Date, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions. Consent by Landlord to a Transfer shall not relieve Tenant from the obligation to obtain Landlord's consent to any further Transfer. Further, in no event shall any permitted transferee Transfer its interest without Landlord's written consent. The joint and several liability of Tenant and any successor in interest of Tenant (by assignment or otherwise) under this Lease shall not in any way be affected by any agreement that modifies any of the rights or obligations of the parties under this Lease or any waiver of, or failure to enforce, any obligation under this Lease.

If Tenant requests Landlord to consent to any Transfer, Tenant shall pay to Landlord, simultaneously with such request (which request must be in writing and provide complete information detailing the proposed transferee and the terms of the proposed Transfer), an administrative fee of Five Hundred and No/100 Dollars (\$500.00) and will reimburse Landlord for all of Landlord's reasonable attorneys' fees and costs associated with Landlord's consideration of such transfer. On the Lease Commencement Date, Tenant has certified in writing to Landlord the names of all owners of stock and other interests in the Tenant in addition to the percentage each such persons hold, and all others who may have a right to elect or otherwise control the officers and directors of Tenant. At any time and from time to time during the term and any renewal thereof, Tenant shall within ten (10) days of written demand from Landlord provide similar certifications. **Any Transfer by Tenant in violation of this Section shall be void.**

**11.2 Notice.** Any notice required or permitted to be given under this Lease shall be in writing and delivered by hand, by nationally recognized overnight air courier service (such as Federal Express) or by United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective Party at the Party's notice address. A notice shall be deemed to have been delivered and received on the earlier of the date actually received (by whatever means sent, including means not authorized by this article) or on the date of transmittal by telecopier, or the first (1<sup>st</sup>) business day after having been delivered to a nationally recognized

overnight air courier service for "next business day" delivery, or on the third (3<sup>rd</sup>) business day after having been deposited with the United States Postal Service registered or certified mail, return receipt requested. If any communication is returned to the addressor because it is refused, unclaimed, or the addressee has moved, or is otherwise not delivered or deliverable through no fault of the addressor, effective notice shall still be deemed to have been given. Addresses for delivery of notice shall be as follows:

Tenant: Salon Elysee, Inc.  
9371 Westover Club Circle  
Windermere, FL 34786  
Phone #407-617-7440

Landlord: Real Estate Division Manager  
City of Orlando  
400 South Orange Avenue  
Orlando, Florida 32801  
Phone #407-246-2655

and

Parking Division Manager  
City of Orlando  
53 West Central Boulevard  
Orlando, Florida 32801

**11.3 Section Titles, Interpretation.** The titles to the sections contained in this Lease are for convenience and reference only. Any gender used herein shall be deemed to refer to all genders. Use of the singular herein shall be deemed to include the plural, and the plural shall be deemed to include the singular.

**11.4 Surrender of Premises.** Upon the expiration or termination of this Lease, Tenant shall return all keys and surrender possession the Premises in a neat and clean condition and good repair, subject to the provisions of **Article 5** hereof concerning removal of Tenant's PPF & E, fixtures and other improvements. Any liability of Tenant hereunder shall survive the expiration or termination of this Lease. Upon the expiration or termination of this Lease, Tenant shall return all keys and surrender possession the Premises in a neat and clean condition and good repair.

**11.5 Holding Over.** Any holding over by Tenant after the expiration of the term of this Lease shall be treated as a tenancy at sufferance at double the rent and other charges specified herein, prorated on a daily basis, and shall otherwise be on the terms and conditions set forth in this Lease, so far as applicable.

**11.6 Construction Liens.** The estate or interest of Landlord in and to the Premises, and the Garage shall not be subject to construction liens of persons or entities not in privity with Landlord. Tenant further agrees immediately to discharge (either by payment or by filing the necessary bond or otherwise) any construction liens against the Premises, the Garage or Landlord's interest therein purporting to be for labor, services, or materials furnished to Tenant in, on or about



the Premises or the Garage. A duly executed instrument by which such construction lien is satisfied, released from the Premises or the Garage or transferred to bond, shall be recorded within ten (10) days after such construction lien is filed or recorded.

**11.7 Self-Help.** Landlord has the right to pay such sums or to do any act which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease, and Tenant agrees to pay Landlord upon demand all such sums with interest at the highest rate allowed by law from the date payment is made by Landlord, and if Tenant defaults Landlord shall have the same rights and remedies as for the failure of Tenant to pay Monthly Rent.

**11.8 Recording.** Tenant agrees not to record this Lease or any memorandum thereof in the Official Records of Orange County, Florida.

**11.9 Binding Effect.** Except as otherwise expressly provided, the terms hereof shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns, respectively, of Landlord and Tenant. This reference to successors and assigns of Tenant is not intended to constitute Landlord's consent to an assignment by Tenant, but has reference only to those instances in which Landlord may give consent to a particular assignment.

**11.10 Entire Agreement.** This Lease constitutes the entire agreement between the parties relating to the matters set forth herein, and shall supersede all prior written or oral agreements or understandings between the parties.

**11.11 Severability.** If any term or provision of this Lease, or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

**11.12 Waiver.** Failure on the part of either Landlord or Tenant to complain of any act or failure to act on the part of the other shall never be a waiver of any respective rights hereunder; however, the foregoing shall not apply to provisions of this Lease, where a right of Tenant is dependent upon notice to be given within a specified period. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. No payment by Tenant or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

**11.13 Estoppel Certificates.** Within twenty (20) days after request in writing by either party, the other party will furnish a written statement in form and substance reasonably acceptable to the non-requesting party, duly acknowledging the fact that (a) this Lease is in full force and effect, (b) rents payable hereunder are current, (c) there are no uncured defaults hereunder by Landlord or Tenant, if that be the case, and additional information concerning such other matters as

reasonably requested. Failure of either party to deliver such estoppel certificate within such twenty (20) day period shall entitle the requesting party to conclusively presume that the Lease is in good standing without default, which statement or representation may be relied upon as being true and correct by any prospective purchaser or mortgagee.

**11.14 Contractual Security Interest.** In addition to any security or lien interest arising out of operation of law or statute, Tenant hereby grants to Landlord a security interest in and a lien upon any and all furniture, fixtures, equipment, goods and other personal property of any kind in which Tenant has an interest that is now or hereafter located on the Premises, as security for the payment of all rents and other sums to be paid by Tenant to Landlord hereunder, and for the purpose of securing the performance of Tenant's duties and obligations in accordance with the terms of this Lease. Tenant agrees to execute a financing statement in the form acceptable to Landlord, such as, but not limited to, a U.C.C. Form 1.

**11.15 Transfer of Landlord's Interest.** In the event of any transfer of Landlord's interest in the Premises or in the real property of which the Premises are a part, Landlord shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer.

**11.16 No Brokerage Commission.** Landlord and Tenant each hereby mutually represent and warrant to each other that it has not dealt with any other broker, agent, finder or other person in connection with the transaction contemplated by this Lease in such a manner as would give rise to any valid claim for a commission or fee in connection with the negotiation or execution of this Lease,

**11.17 Landlord's Exculpation.** Anything to the contrary contained in this Lease notwithstanding, Landlord's elected and appointed officials, officers, agents, employees, representatives, successors and assigns, shall have absolutely no corporate or personal liability with respect to the performance of any of the terms, covenants, conditions and provisions of this Lease. Such exculpation of liability shall be absolute and without exception whatsoever.

**11.18 Liability Limits.** Landlord is a Florida municipal corporation whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of Tenant beyond that provided in Section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of Tenant's sovereign immunity under Section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of Landlord's obligations under the provisions of this Lease are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

**11.19 Rules and Regulations.** Landlord reserves the right to promulgate, and Tenant hereby agrees to comply with, the Rules and Regulations for the Premises, Common Areas and Garage, including but not limited to the following:

- (a) To load and unload goods only at such times, in such areas and through such entrances as may be designated for such purposes by Landlord.

Trailers, trucks, or other vehicles shall not be permitted to remain parked overnight in any area of the Garage.

(b) To keep the Premises and the sidewalks, service ways and loading areas adjacent to the Premises neat, clean and free from rubbish, insects and pests at all times, and to remove all trash and garbage from the Premises, prepared for collection in the manner and at the times specified by Landlord.

(c) To keep the outside areas immediately adjoining the Premises clean, and not to burn, place or permit any rubbish, obstruction or merchandise in such areas.

(d) To keep the Premises clean, orderly, sanitary and free from objectionable odors, and insects, vermin and other pests.

(e) To warehouse, store and/or stock in the Premises only such goods, wares and merchandise as Tenant intends to use or offer for sale from the Premises. This shall not preclude occasional emergency transfers of merchandise to other stores of Tenant not located in the Garage.

(f) To keep its display window(s) in the Premises dressed and illuminated, and its signs and exterior lights properly during operating hours every day during the term of this Lease, excluding legal holidays. Tenant shall maintain all windows free of signs and other obstructions, in a neat, attractive condition, displaying only materials promoting the business authorized as the Intended Use for the Premises. In order to maintain an attractive exterior appearance Landlord shall have the right to approve all window coverings and any other items, which are visible from the exterior of the Premises. Tenant shall not display merchandise on the exterior of the building for sale or promotional purposes.

(g) Not to use or operate any machinery that, in Landlord's opinion, is harmful or disturbing to other tenants in the Garage.

(h) Not to permit any objectionable or unpleasant odor to emanate from the Premises; place or permit any radio, television, loud speaker or amplifier on the roof or outside the Premises or where the same can be seen or heard from outside the Premises or in the Common Areas; place an antenna, awning or other projection on the exterior of the Premises; solicit business or distribute leaflets or other advertising material in the Common Areas; take any action which in the exclusive but reasonable judgment of Landlord would constitute a nuisance or would disturb or endanger customers or other tenants or unreasonably interfere with their uses of their respective premises; or do anything which in the exclusive but reasonable judgment of Landlord would tend to injure the reputation of Landlord. As part of the marketing in accordance with the Intended Use, Tenant may play music within the Premises, but the volume shall be limited so as not to disturb others outside of or on the sidewalks adjacent to the Premises.

(i) Not to conduct any auction, fire, bankruptcy or going out of business sale on or about the Premises.

(j) Not use, generate, store or dispose of hazardous waste materials upon the Premises and agrees to hold harmless and indemnify Landlord against all liability, loss and damage resulting from Tenant's breach of this covenant, including but not limited to court costs, attorney fees, fines, forfeitures, cleanup expenses, repairs, loss of use of property, and all similar or dissimilar losses. This indemnity shall continue in full force and effect after termination of this Lease and any renewal term hereof. The term "hazardous waste materials" includes all chemicals, substances, and materials, which are defined to be hazardous or toxic waste or hazardous substances in any federal or state statute, or any local ordinance, or any regulation adopted by any state, federal or local agency.

Tenant's failure to keep and observe the Rules and Regulations shall constitute a breach of this Lease in the same manner as if they were contained herein as covenants. Notice of rules, regulations, amendments and supplements thereto, if any, shall be given to Tenant, and Tenant agrees thereupon to comply with and observe all of them, provided that the same shall apply uniformly to all other tenants of the Garage.

**11.20 Discrimination Not Permitted.** Landlord and Tenant for themselves, their successors and assigns covenant and agree that no person shall be excluded from participation in, denied benefits of, or otherwise subjected to unlawful discrimination in the use of the Premises, the construction of any improvements thereon or the furnishing of services therein.

**11.21 Non-Military Certification.** Tenant hereby certifies warrants and represents to Landlord that Tenant, if an individual, is not on active duty in the Armed Forces of the United States.

**11.22 Construction of Language:** The words "including" and "include" when used in this Lease shall be deemed to mean "including, but not limited to," or "including without limitation." This Lease has been negotiated "at arm's-length" by Landlord and Tenant, each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Lease. Therefore, this Lease shall not be more strictly construed against either Party by reason of the fact that one Party may have drafted this Lease. The headings of articles and sections in this Lease are for convenience only and shall not be relevant for purposes of interpretation of this Lease.

**11.23 Relationship of the Parties.** The relationship between the parties hereto is solely that of landlord and tenant and nothing contained herein shall constitute or be construed as establishing any other relationship between the parties, including, without limitation, the relationship of principal and agent, employer and employee or parties engaged in a partnership or joint venture. Without limiting the foregoing, it is specifically understood that neither party is the agent of the other and neither is in any way empowered to bind the other to use the name of the other in connection with the construction, maintenance or operation of the Premises, except as otherwise specifically provided herein.

**11.24 Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

**11.25 Jury Trial Waiver.** The parties waive trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of or in any way connected with this Lease. Tenant further waives the right to interpose any permissive counterclaim of any nature in any action to obtain possession of the Premises.

**IN WITNESS WHEREOF,** the parties hereto have executed this instrument for the purpose herein expressed, the day and year first above written.

**LANDLORD: CITY OF ORLANDO**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Mayor/Pro Tem

Attest:

\_\_\_\_\_  
Amy T. Iennaco, Interim City Clerk

Witnesses:

- (1) Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_
- (2) Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
City of Orlando, Florida, only.

\_\_\_\_\_, 2016.

\_\_\_\_\_  
Assistant City Attorney

**TENANT: SALON ELYSEE, INC., a  
Florida corporation**

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

\_\_\_\_\_  
President

Witnesses:

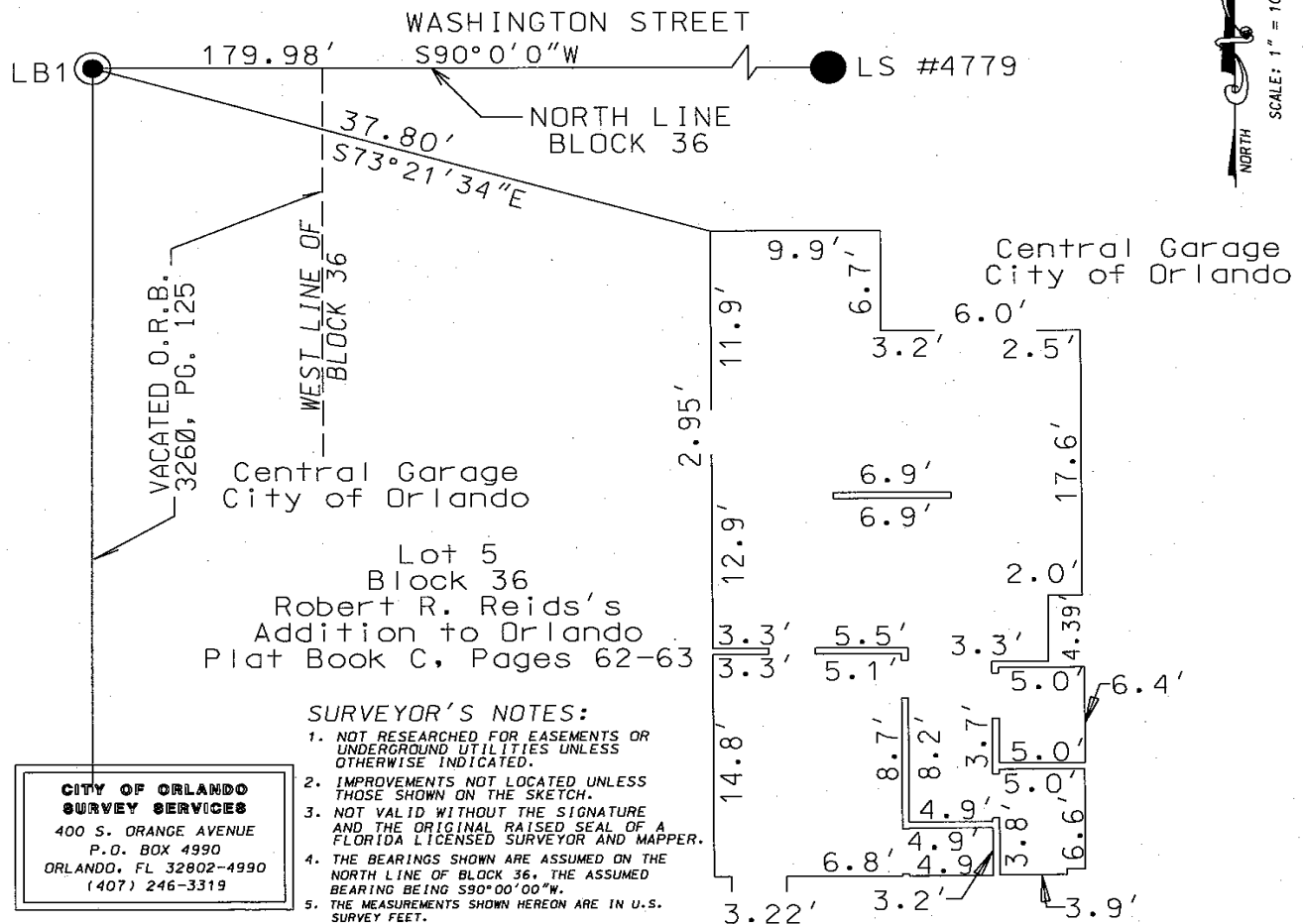
(1) Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_

(2) Sign: \_\_\_\_\_  
Print Name: \_\_\_\_\_

# EXHIBIT A Premises

## 58 West WASHINGTON STREET

A PORTION OF THE GARAGE LOCATED AT 58 WEST WASHINGTON STREET AND BEING A PORTION OF LOT 5, BLOCK 36, ROBERT R REID'S ADDITION TO ORLANDO, AS RECORDED IN PLAT BOOK C, PAGES 62 AND 63 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA;  
SAID PORTION CONTAINING 821.04 SQUARE FEET, MORE OR LESS.



I HEREBY CERTIFY THAT THIS SKETCH HAS BEEN PERFORMED UNDER MY DIRECTION, AND THAT THIS SKETCH HAS BEEN PREPARED IN ACCORDANCE WITH THE ADOPTED "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 5J-17 F.A.C. PURSUANT TO SECTION 472.02, FLORIDA STATE STATUTES.

JOSEPH M. STOKES, JR. PSM  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA REGISTRATION NUMBER 5507



PREPARED BY:  
CITY OF ORLANDO SURVEY SERVICES  
THIS IS NOT A BOUNDARY SURVEY

### LEGEND

- REC NAIL AND DISC
- ⊙ RECOVERED IRON ROD AND CAP
- LS LICENSED SURVEYOR
- LB LICENSED BUSINESS

DATE: FEBRUARY 16, 2011  
DRAWN BY: PSJ  
FILE: 58 AND 62 WEST WASHINGTON LEGAL  
2-10-11 POTTER.DGN

## LEASE GUARANTY

In consideration for Landlord's leasing the Premises to Tenant, the undersigned Guarantors (sometimes here collectively referred to as "Guarantor") guarantee the performance of the Tenant(s) under the lease described herein ("Lease") on the following terms and conditions:

1. Description of Lease Guaranteed. Guarantor hereby guarantees the following described lease:

Landlord(s): City of Orlando.

Tenant(s): Salon Elysee, Inc.

Property: 58 W Washington St, Orlando, FL 32801.

Commencement Date: May 1, 2016

Initial Expiration Date: April 30, 2019.

Monthly Rent: \$1,188.19, plus other amounts due under the Lease.

2. Guaranty of Guaranteed Obligations. Guarantor hereby unconditionally and irrevocably guarantees to Landlord:

(a) full and punctual payment by Tenant of all rent for the original and all extended terms of the Lease, as may be provided for under the Lease and by any successor tenant permitted under the Lease; and

(b) payment by Tenant of all other obligations coming due under the Lease for the initial and all extended terms of the Lease, including but not limited to taxes, insurance, utilities, license fees and any other costs incurred for the Premises. The obligations of Tenant described in paragraph (a), above, and this paragraph (b) are herein referred to as the "Guaranteed Obligations".

3. Scope and Extent of Guaranty. Guarantor shall be primarily liable, jointly and severally, with Tenant and any other guarantor of Tenant's obligations in respect to the payment of the Guaranteed Obligations. Guarantor's agreement to guarantee the Guaranteed Obligations is expressly subject to the right of Guarantor to assert any defenses (whether substantive or procedural), set offs and counterclaims that Tenant could itself assert against Landlord under the Lease with the same force and effect as if Guarantor had executed the Lease directly, which right is hereby reserved by Guarantor (except as expressly set forth to the contrary in **Section 5** below). Guarantor hereby waives all notices of protest, dishonor, and notices of acceptance of this Guaranty, and waives all notices of existence, creation, or incurring of new or additional obligations from Tenant to Landlord under the Lease. Guarantor acknowledges that, under the terms of the Lease, Landlord may terminate the Lease or Tenant's right of possession thereunder as a result of a Tenant "Event of Default" under the Lease and, upon any such termination. Guarantor agrees that this Guaranty is intended to continue in full force and effect following the termination of the Lease or the termination of Tenant's right of possession thereunder as a result of a Tenant "Event of Default" under the Lease, and that Guarantor shall (except as may be otherwise agreed in writing by Landlord) continue to guarantee the Guaranteed Obligations as contemplated hereunder if any other third party becomes "Tenant" under the Lease, as a result of an Event of Default under the Lease by Tenant. In any such event, Guarantor shall execute any such documentation ratifying or confirming



Guarantor's obligations hereunder, including a new guaranty in the same form as this Guaranty, as Landlord may reasonably require.

4. Period of Guaranty. Subject to the following sentence, the obligations of Guarantor as to the Guaranteed Obligations shall continue in full force and effect against Guarantor in accordance with the terms hereof for all matters, transactions and things occurring prior to the expiration of the Term (as defined in the Lease) of the Lease, whereupon Guarantor shall have no liability for any matters, transactions or things occurring thereafter, except for any costs and expenses incurred in enforcing the Lease Guaranty. This Guaranty covers any and all of the Guaranteed Obligations, whether presently outstanding or arising subsequent to the date hereof. This Guaranty is irrevocably binding upon and enforceable against Guarantor and the successors of Guarantor in accordance with the terms hereof, and shall inure to the benefit of the Landlord under the Lease, and its successors and assigns.

5. Primary Liability of Guarantor. This is a primary and continuing guaranty of payment of the Guaranteed Obligations, independent of Tenant's obligations under the Lease. Guarantor waives any right or claim to require Landlord (a) to proceed against any person or entity (including Tenant or its successors) to look for payment of the Guaranteed Obligations, or join any such person or entity in any suit under this Guaranty (provided, however, that Landlord agrees that Guarantor shall be an initial party-defendant in any legal proceeding asserted by Landlord against the Tenant that may result in any liability of Guarantor under this Guaranty, but Landlord may enforce the provisions of this Guaranty and assert claims against Guarantor hereunder without first pursuing any right or remedy against Tenant), (b) to proceed against or exhaust any security given to secure Tenant's obligations under the Lease, or (c) to pursue or exhaust any other remedy within the Landlord's power. Guarantor agrees not to assert any claim that Guarantor may have against Landlord by virtue of Landlord's failure to exercise any rights against Tenant. Guarantor waives any right or claim to force Landlord to proceed first against Tenant and agrees that no delay or refusal of Landlord to exercise any right or privilege Landlord has or may have against Tenant shall operate to impair the liability of Guarantor hereunder. Guarantor agrees that neither bankruptcy, insolvency, other disability, cessation of existence or dissolution of Tenant shall in any manner impair, affect, or release the liability of Guarantor hereunder, and Guarantor shall be and remain fully liable hereunder in accordance with the terms hereof. Guarantor understands and acknowledges that, by virtue of this Guaranty, Guarantor has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to Tenant or its successors. Guarantor hereby acknowledges and agrees that the Guaranteed Obligations shall not be reduced by the amount of any funds which Landlord is required to return to Tenant (or the legal estates thereof) pursuant to a bankruptcy or reorganization case or proceeding with respect to Tenant. Guarantor waives any right to participate in any security now or hereafter held by Landlord. Landlord may, without notice or demand and without affecting Guarantor's liability hereunder, from time to time, compromise, extend or otherwise modify any or all of the terms of the Lease. Guarantor further waives all defenses afforded guarantors based on suretyship or impairment of collateral under applicable law, other than payment and performance in full of the Guaranteed Obligations. Until all of Tenant's obligations to the Landlord with respect to the Guaranteed Obligations have been discharged in full, any and all rights of subrogation which Guarantor may have or be entitled to against Tenant shall be and are hereby subordinated to the rights of the Landlord against Tenant with respect thereto.

6. Place of Performance. All payments to be made hereunder shall be payable in Orlando, Florida.

7. Applicable Law. This Guaranty shall be governed by and construed in accordance with the laws of the United States of America and the State of Florida, and is intended to be performed in accordance with and as permitted by such laws. Wherever possible each provision of this Guaranty shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Guaranty or application thereof shall be prohibited by or be invalid under such law, such provision or application (as the case may be) shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or other applications or the remaining provisions of this Guaranty.

8. No Third Party Beneficiaries. There shall be no third party beneficiaries of this Guaranty.

9. Notices. Any notices given to Guarantor or Landlord hereunder shall be given in the manner set forth in **Section 11.4** of the Lease, but to the respective addresses set forth beneath the parties' signatures below or at such other addresses as the parties may hereafter designate in writing from time to time.

10. Multiple Counterparts. This Guaranty may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

11. Modifications. This Guaranty may not be modified except by a writing signed by the parties hereto.

**Guarantors hereby acknowledge receipt of a copy of the above-referenced lease and acknowledge that they fully understand all terms and provisions thereof, as well as this guaranty.**

\_\_\_\_\_, 2016  
Print Name: Kam Wai P Mak Date

Address: 9371 Westover Club Cir, Windermere, FL 34786