

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

YUSUF YUSUF, derivatively on behalf of
PLESSEN ENTERPRISES, INC.,

Plaintiff,

vs.

WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
FIVE-H HOLDINGS, INC.,

Defendants,

and

PLESSEN ENTERPRISES,

Nominal Defendant.

CIVIL NO. SX-13-CV-120

ACTION FOR DAMAGES
AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

14 MAY 20 04:12
ST. CROIX

MOTION TO NULLIFY PLESSEN ENTERPRISES, INC.'S BOARD RESOLUTIONS,
TO VOID ACTS TAKEN PURSUANT TO THOSE RESOLUTIONS, AND TO APPOINT
RECEIVER

Plaintiff Yusuf Yusuf ("Plaintiff"), through his undersigned attorneys, respectfully moves this Court to nullify the resolutions purportedly made by the Board of Directors of Plessen Enterprises, Inc. on April 30, 2014, to void the acts taken pursuant to those resolutions, and to appoint a Receiver for Plessen. In support of this Motion, Plaintiff submits the attached supporting Brief and a proposed order.¹

Dated: May 20, 2014


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¹ A similar motion and supporting brief has been filed in a related case pending in this Court, Hamed v. Yusuf, Case No. SX-12-CV-370.

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2014, I caused the foregoing Motion To Nullify Plessen Enterprises, Inc.'s Board Resolutions, To Void Acts Taken Pursuant To Those Resolutions, And To Appoint Receiver of to be served upon the following via e-mail:

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PLESSEN ENTERPRISES,

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CIVIL NO. SX-13-CV-120

ACTION FOR DAMAGES
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JURY TRIAL DEMANDED

14 MAY 20 A4:12
ST. CROIX

**PLAINTIFF'S BRIEF IN SUPPORT OF MOTION TO NULLIFY PLESSEN
ENTERPRISES, INC.'S BOARD RESOLUTIONS, TO VOID ACTS TAKEN PURSUANT
TO THOSE RESOLUTIONS, AND TO APPOINT RECEIVER**

INTRODUCTION

Nominal defendant Plessen Enterprises, Inc. ("Plessen") is a VI corporation formed in 1988 and is owned 50/50 between the families of Mohammed Hamed ("Hamed") and Fathi Yusuf ("Yusuf")¹ that are at the center of this and related litigation. See Hamed's First Amended Complaint filed in a case pending in this Court at Case No. SX-12-CV-370 (the "370 Case"), ¶ 20(c); Yusuf's First Amended Counterclaim in the 370 Case, ¶ 11, 115-117). Plessen owns, inter

¹ Yusuf is the father of plaintiff Yusuf Yusuf ("Plaintiff") and is also a shareholder, officer, and director of Plessen.

alia, the land on which the Plaza Extra - West² store is situated, and has other significant real estate holdings in St. Croix and St. Thomas. (Id.). Yusuf alleged in his counterclaim in the 370 Case that “[b]ecause the equity of Plessen is owed equally by the Hamed and Yusuf families who have an irreconcilable disagreement on how to continue the business operations of this company, it should be dissolved and its assets liquidated according to law.” (See First Amended Counterclaim in the 370 Case, p. 28, Count IV, ¶ 168). Yusuf also sought appointment of a Receiver to liquidate the assets of the Plaza Extra Stores and Plessen and, after satisfying creditors, to divide the net proceeds between Hamed and Yusuf according to their respective interests as determined by the Court in the 370 Case. (Id., Count X, ¶ 171).

Moreover, at the behest of Hamed, a preliminary injunction was entered in the 370 Case, which was intended to preserve the status quo during the pendency of this litigation and to prevent either the Hamed or Yusuf family from taking “unilateral action . . . affecting the management, employees, methods, procedures and operations” of the three Plaza Extra stores. See Hamed v. Yusuf, 58 V.I. 117, 138 (Super. Ct. 2013).

The deadlock between these two families was well summed up in an early Virgin Islands case involving a close corporation and shareholder families that found themselves in *impasse*, Moran v. Edson, 493 F.2d 400 (3d Cir. 1974):

Thus, as can be seen, the two factions were in hopeless deadlock. The only matter upon which they did agree was that each would like to be released from the relationship, but they obviously could not agree upon the procedure or the price whereby it could be accomplished.

²There are three Plaza Extra stores in the Virgin Islands. The two located in St. Croix are known, respectively, as Plaza Extra - East and Plaza Extra - West. The store located on St. Thomas is known as Plaza Extra – Tutu Park.

Id. at 404. In light of the hopeless deadlock between the Hamed and Yusuf families and the existence of the preliminary injunction, the attempt by Hamed and his son, Waleed Hamed (“Waleed”), to flout the injunction by unilaterally bringing on a putative Special Meeting of the Board of Directors of Plessen and approving actions for the exclusive benefit of the Hamed family interests is not only violative of the preliminary injunction, but is also invalid as the kind of self-dealing by interested directors that is not permitted under recognized authorities.

In Moran, the Third Circuit quoted the lower court’s opinion in summarizing the applicable principles as to when a transaction involving self-dealing by a director is voidable:

Directors and officers are not free to appropriate corporate assets in fraud of the stockholders, and any such asset taken for the exclusive benefit of favored principals are recoverable by the corporation, . . . Nothing less than a unanimous ratification by the shareholders can validate such personal use of the corporation’s funds and property.

Id. at 406 (emphasis added). See also Model Business Corporation Act Sections 8.30 and 8.31 as to Standards of Conduct and Standards of Liability for Directors, including reference to challenging conduct of a director which was the result of an action not taken in good faith or “a lack of objectivity due to the director’s familial, financial or business relationship with, or a lack of independence due to the director’s domination or control by, another person having a material interest in the challenged conduct . . . which relationship . . . could reasonably be expected to have affected the director’s judgment respecting the challenged conduct in a manner adverse to the corporation.”

In light of these principles, the preliminary injunction restrained the parties in such a way as to ensure that all managerial decisions would require the approval of a member from both families. While only a temporary fix, it was intended to prevent either family from making

unilateral decisions that might dissipate or squander assets while their disputes were being litigated.

The Hameds have tried to circumvent orderly judicial resolution of the dispute with the Yusufs by holding a meeting of the Board of Directors of Plessen on one business day's notice to Yusuf to, among other things, ratify the misappropriation of \$460,000 of Plessen monies by Waleed, which is at the heart of the complaint in this case, and to approve a lease of the Plaza Extra - West store, which is located on Plessen land, to a company owned in part by Waleed, both instances of self-dealing. The lessee company, KAC357, Inc. (the "New Hamed Company") was incorporated on April 22, 2014 and is wholly owned by Hamed family members – Waleed and two of his brothers. As discussed in more detail below, under the law applicable to this case, these interested director approvals cannot stand, and the approvals and any actions taken pursuant to them must be nullified and voided. Moreover, the very fact that Hamed and Waleed attempted such brazen acts of self-dealing establishes the hopeless deadlock amongst the shareholders of Plessen and evidences the need for the appointment of a Receiver to dissolve Plessen, liquidate its assets, and divide the net proceeds between the Hameds and Yusufs.

STATEMENT OF FACTS

A. Unauthorized Board Meeting Called by Hamed to Ratify His and his Son's Misdeeds.

On Monday, April 28, 2014, at approximately 4 p.m., a document entitled Notice of Special Meeting of Board of Directors of Plessen Enterprises, Inc. (the "Notice") was hand delivered to Yusuf, a director, shareholder and secretary of the Board of Directors, announcing an intent to hold such a meeting on April 30, at 10:00 a.m. at the Plaza Extra - East store in St. Croix. (See Exhibit A, Notice of Special Meeting of Board of Directors of Plessen (without the

unsigned lease that was attached to the Notice)). The Notice was issued by Hamed, who is one of the directors of Plessen, instead of by Yusuf in his capacity as Secretary of the Board, as the Bylaws require (in sections 3.4 and 7.2 thereof). The fact that the Notice was served on Yusuf on one business day's notice was an obvious attempt to avoid judicial scrutiny of an action that, as discussed below, was unlawful and an end-run around this case and the 370 case. It also was, at the very least, a violation of the spirit of the preliminary injunction entered in the 370 Case.

The stated purpose of the Special Meeting was to approve or ratify five actions of Plessen, namely:

- (1) a lease of the Plaza Extra - West premises, owned by Plessen, to the New Hamed Company³ (the "Hamed Lease"), a blatant conflict of interest;
- (2) to ratify Waleed's unilateral, unauthorized, surreptitious and unlawful withdrawal of \$460,000.00 from a Plessen bank account on March 27, 2013 as the payment of a corporate "dividend";
- (3) to authorize the payment of up to another \$200,000 in corporate dividends;
- (4) to approve the retention of Attorney Jeffrey Moorehead to represent the corporation and to pay him a retainer of \$20,000; and
- (5) to remove Yusuf as registered agent for Plessen and replace him with Jeffrey Moorhead. (Exhibit A).

³In the "Hamed Plan For Winding Up Partnership" (the "Hamed Plan"), attached as Exhibit 2 to Hamed's "Response To Defendants' Motion to Appoint Master For Judicial Supervision Of Partnership Winding Up Or, In The Alternative, To Appoint Receiver To Wind Up Partnership" filed on April 30, 2014 in the 370 Case (the "Response"), it is stated that the New Hamed Company is owned by Waleed and his brothers, Waheed and Mufeed. See Hamed Plan at § 1.31.

Waleed's unlawful withdrawal of \$460,000 in corporate monies is the very subject of this case, which has been pending in this Court for more than one year. The fortuitous circumstances of the discovery of this misappropriation of corporate funds is described in paragraphs 25-28 of the Verified Complaint in this case.

B. Yusuf's Formal Response to the Notice Pointing Out its Procedural and Substantive Infirmities.

The very next day, on April 29, 2014, Yusuf, as Secretary of Plessen, issued a Response to Request for Special Meeting of Board of Directors, which pointed out the deficiencies with the Notice, and explained why a Special Meeting of the Board was improper and should not take place. (See Exhibit B –Response to Notice of Board Meeting.) Yusuf's Response explained that the Notice was procedurally defective as it was not issued by him as the Secretary, the only party authorized to provide notice of such meetings. (See Exhibit C, Plessen Bylaws, ¶¶ 3.4 and 7.2.B). Further, the Notice was not served upon Maher ("Mike") Yusuf,⁴ who also was a director of Plessen.⁵ The Response also explained that the five items on the agenda were

⁴See Kings Wharf Island Enterprises, Inc. v. Rehlaender, 34 V.I. 23, 30-31 (V.I. Terr. Ct. 1996) (failure to notify minority shareholder of shareholder meeting was fatally defective to actions taken at meeting, and because resolutions did not germinate from a properly notified meeting, they are null and void).

⁵The parties agree that Hamed, Waleed, and Yusuf are directors of Plessen. Although Waleed and Hamed dispute Mike's position as a director, there is ample evidence to the contrary. Mike is reflected as a director of Plessen by the Department of Licensing and Consumer Affairs. See Exhibit D – Printout from February 14, 2013 List of Corporate Officers for Plessen, also attached as Exhibit C to the Verified Complaint in this case. Further, the records from Scotiabank, which demonstrate who is authorized to sign on Plessen's account, show Mike as a "Director/Authorized Signatory" and his signature is listed next to Waleed's, who is likewise listed as a "Director/Authorized Signatory". See Exhibit E – Scotiabank Records Regarding Authorized Signatory. The Court need not, however, resolve the issue of whether Mike is a director in order to grant the relief sought in this motion. Even assuming arguendo that the only directors of Plessen are the two Hameds and Yusuf, the transactions the Hamed family sought to

“prejudicial to the [Yusuf family] shareholders and a subterfuge to accomplish through invalid Board of Directors action approval of items . . . that should more properly be submitted to a Special Meeting of the Shareholders of the Corporation, if at all.” (Exhibit B).

C. Yusuf Filed in Court to Enjoin the Meeting But the Hamed Directors Acted Without Waiting for a Court Ruling.

On April 30, 2014, at 9:08 a.m., in advance of the Special Meeting, Yusuf filed his Emergency Motion to Enjoin 4/30/14 Special Meeting of Board of Directors of Counterclaim Defendant Plessen (“Yusuf’s Emergency Motion”) in the 370 Case. Notwithstanding Yusuf’s Emergency Motion, the Hamed directors elected to go forward with the meeting without first obtaining direction from the Court. Yusuf’s motion set forth all of the grounds for enjoining the Special Meeting and why it was improper. However, given the timing, and this Court’s schedule, a review or ruling could not be secured in advance of the meeting. Clearly, the Notice was intended to create an artificially compressed timeframe for the very purpose of evading judicial scrutiny.

D. The Meeting Results In A Shouting Match.

At 10:00 a.m. the same day, Yusuf and his counsel appeared at the Special Meeting and voiced objections on the grounds set forth in Exhibit C. Unfortunately, the decorum of the meeting deteriorated quickly, further demonstrating the deadlock between the parties. The meeting was to be transcribed, but as the parties began speaking (and then shouting) over each other at the same time, creating a transcript proved to be impossible. However, an audio visual recording is attached to provide the Court with the benefit of what actually transpired during the

have ratified at the Board meeting should be rendered null and void for the reasons discussed below.

meeting as well as the tone, tenor and demeanor of the events as they occurred. See Exhibit F - DVD of the audio visual recording of the April 30, 2014 meeting.

E. Waleed Ratifies His Misdeeds and Engages In Blatant Self-Dealing.

At the Special Meeting, Waleed, over the objection of Yusuf, simply moved to ratify his earlier unauthorized withdrawal of \$460,000 in funds from Plessen as a “dividend,” to approve an additional withdrawal of \$200,000 as a further dividend to shareholders, and then to approve a lease between Plessen and his own company. No discussion was had, as the meeting was a sham. Further, Hamed and Waleed failed to recognize Mike as a director or allow him to vote on the proposals. This insured that the two Hamed directors, Waleed and Hamed, were able to out-vote Yusuf, thereby allowing the Hameds to “approve” their own misdeeds by majority vote. See Exhibit F.

F. The Actions Taken By Hamed and Waleed Were Calculated and Deliberate Efforts To Further Their Scheme and Were Unbeknownst to Yusuf.

By 10:55 a.m., Waleed and Hamed had not only ratified their misdeeds and engaged in self-dealing but they had already attempted to complete the sham to make it “official” by signing the purported Resolutions of the Board of Directors (“Purported Resolutions”), again a function of the Secretary of the Board of Directors. See Exhibit G – Email from Joel H. Holt attaching April 30, 2014 Resolutions of the Board of Directors as Exhibit A to his Response to Yusuf’s Emergency Motion. Such Response argued that the motion was now “moot as the meeting took place” albeit less than an hour earlier.

The Purported Resolutions provide as follows:

RESOLVED, that any and all actions of Waleed Hamed to remove and distribute funds in May of 2013 in the amount of \$460,000.00 as dividends is ratified and approved,

RESOLVED, that the President of the Corporation is hereby authorized to take any and all action necessary, proper and desirable to enter into a lease agreement with KAC357, Inc. [Waleed's company]...where the current Plaza Extra Supermarket is located...

RESOLVED, that Jeffrey Moorehead, be retained by the President to represent the corporation in ... [this case and the Derivative Action].⁶

RESOLVED, that the President of the Corporation is hereby authorized to take any and all action necessary, proper and desirable to issue additional dividends up to \$200,000.00 from the company's bank account to the shareholders.

RESOLVED, That Fathi Yusuf is removed as the Registered Agent of the Corporation...

See Exhibit G.

It further appears that the approval of the Hamed Lease and thus, the Special Meeting, was calculated to coincide with Hamed's Response, see footnote 3, supra, to Yusuf's Motion To Appoint Master For Judicial Supervision Of Partnership Winding Up, Or In The Alternative, To Appoint Receiver To Wind Up Partnership ("Motion to Appoint Master/Receiver"), which was also served at the same time, 10:55 a.m. on April 30, 2014. The Hamed Plan, attached as Exhibit 2 to the Response, made the Hamed Lease, which had been "approved" less than an hour earlier, a linchpin to the success of Hamed's Plan for the winding up of his now dissolved partnership with Yusuf. The Hamed Lease was executed on April 25, 2014 by the New Hamed Company and on April 30, 2014 by Plessen. See Exhibit I - Hamed Lease at p. 20. A memorandum of the

⁶To further underscore that the meeting was a sham, it is revealing that Attorney Moorhead was purportedly authorized to be retained on April 30, 2014, but he was given a check dated April 25, 2014 in the amount of \$20,000 signed by Waleed and his brother, Mufeed. See copy of check attached as Exhibit H, which reflects that it was presented for payment on April 29, 2014.

Hamed Lease was recorded against Plessen's property by Hamed's attorney, Joel H. Holt, on April 30, 2014. See Exhibit J – Memorandum of Commercial Lease.

Hence, it is clear that the Special Meeting and approval of the Hamed Lease were all part of a concerted, and synchronized plan to respond, outside the confines of this case and the 370 Case, to the Motion To Appoint Master/Receiver and the Plan For Winding Up Partnership attached as Exhibit A to that motion (the "Yusuf Plan").

ARGUMENT

It is a longstanding principle of the common law of corporations "that the fiduciary relationship between directors and the corporation imposes fundamental limitations on the extent to which a director may benefit from dealings with the corporation he serves." Marciano v. Nakash, 535 A.2d 400, 403 (Del. 1987). The early common law rule was that interested director transactions – i.e., transactions between a corporation and a director or an entity in which the director has an interest – were *per se* voidable, and subject to rescission in a lawsuit by any shareholder, regardless of their fairness. See 3 William M. Fletcher, Cyclopedia of the Law of Private Corporations §917 (perm. ed. rev. vol. 1994); Potter v. Sanitary Co., 194 A. 87, 91 (Del. Ch. 1937). The modern common law rule has replaced the rule of *per se* voidability of interested director transactions with a rebuttable presumption of voidability. That presumption of voidability can only be rebutted by the interested director showing that the transaction was intrinsically fair to the corporation. See In re Cox Communications, Inc. Shareholders Litigation, 879 A.2d 604, 615 (Del. Ch. 2005).

The modern common law also provides two other ways in which the interested party could be relieved of the "burden to show that the transaction was entirely fair to the corporation"

– namely, approval of the transaction by a majority of disinterested directors, or approval by a majority of disinterested shareholders. See id. at 615. In the event of disinterested director or shareholder approval of that kind of transaction, the interested party would only be required to show that the transaction satisfied the business judgment rule. See id. at 615. See also Sterling v. Mayflower Hotel Corporation, 89 A.2d 862, 866 (Del. Ch. 1952) (where interested directors voted to approve a transaction, and a majority of shareholders, interested and disinterested, also voted to approve it, the interested parties had the burden of showing “their good faith and the fairness of the transaction” in order for court to permit it to go forward); Fliegler v. Lawrence, 361 A.2d 218, 222 (Del. 1976) (shareholder ratification of an “interested transaction” only relieves the interested parties of their burden of proof if a majority of “disinterested” shareholders vote to approve it).⁷ Where, as here, an interested director transaction is not approved by a majority of disinterested directors, and “shareholder deadlock prevents ratification,” the law is clear that the interested directors must meet the “intrinsic fairness test” in order to avoid rescission of the transaction. See Marciano, supra, 535 A.2d at 404 and at 405, n.3.

⁷In Delaware, as in other states, these common law principles have essentially been codified by a 1967 statute, the Delaware General Corporation Law, including section 144(a)(3), which requires that it be demonstrated that “[t]he contract or transaction is fair to the corporation as of the time it is authorized. . .” 8 Del. C. § 144 (a)(3). See In re: Cox Communications, Inc., supra, 879 A.2d at 615 (noting substantial similarity between the “common law of corporations . . . and its approach to interested director transactions” and § 144). The Model Business Corporation Act, § 8.61-8.63, also substantially codifies the modern common law rule regarding interested director transactions. Section 144 appears to depart from the common law rule only insofar as it allows for shareholder ratification without regard to the interests of the shareholders. Even so, just because a majority of all shareholders, interested and disinterested, vote to approve an interested director transaction does not shield it from attack on fairness grounds under section 144. The transaction is still subject to judicial scrutiny for fairness, and may be rescinded if a court determines it to be unfair to the corporation. See Fliegler, supra, 361 A.2d at 222; Fletcher, supra, at § 917.

A. The Hamed Lease is Unfair and Should be Nullified.

Applying these common law principles to this case establishes that the Plessen board approval of the Hamed Lease (Exhibit I) should be rescinded. The approval at the director level occurred only because the votes of the Hameds, who are interested parties, were counted. Plessen is, as described above, owned 50-50 by each of the two families, and shareholder deadlock would prevent ratification by the shareholders. Under these circumstances, the Hameds must prove that the sweetheart lease is intrinsically fair in order to overcome the presumption of voidability. This, they cannot do.

As a threshold matter, the Hamed Lease is on its face premature, and for that reason alone is not in the interests of Plessen and is unfair to Plessen. Section 2.3.4 of the Hamed Lease makes it clear that the Hamed Lease cannot become effective until some unspecified date in the future, and only if and when the Plaza Extra – West store ceases to occupy those premises:

The Parties recognize that there is currently a partnership between Fathi Yusuf and Mohammad Hamed operating a grocery business in the Demised Premises. The Tenant shall not be granted possession of the Premises so long as this partnership is in possession of the Premises. Likewise, rent shall not be due until the Tenant has possession of the Premise.

Exhibit I, § 2.3.4.

Since the Hamed Lease is only a contingent lease, the only reason it was approved and executed – and why a Memorandum of Commercial Lease⁸ was recorded against Plessen's property – is to give the Hameds an inside track on ultimate purchase of the assets of Plessen, when the corporation is dissolved and its assets sold by Receiver, something that they know is inevitable in

⁸ The recorded Memorandum of Commercial Lease states that the Hamed Lease is "effective April 29, 2014" and has an initial ten-year term. (Exhibit J). This statement to third parties is false, because it omits any mention of the contingency set forth in section 2.3.4 of the Hamed Lease. Thus, the recorded memorandum falsely communicates to any member of the public who reviews this record at the Recorders' Office or on its website, that the ten-year term commenced on April 29, 2014.

light of the deadlock between the parties. The existence of the Hamed Lease is a kind of “poison pill,” which is designed to dissuade any outside investor from bidding to acquire the Plessen property that is subject to the Hamed Lease, and to that extent devalues the assets of Plessen, which is further indicia of the unfairness of the Lease.

This self-dealing lease transaction is unfair to Plessen because of a number of its terms. For example, while the lease term is a ten-year initial term with two options to renew (which, if exercised, would result in a thirty-year lease period), there are no personal guaranties of the Hameds to back up the obligations of the lessee, the New Hamed Company. As discussed above, the New Hamed Company is a start-up company that was formed only eight days before the Special Meeting of the Plessen Board called by Hamed. Without a personal guaranty, the practical reality is that the Hameds can simply walk away from this lease, without any financial penalty, and at Plessen’s expense. In the event of such a breach, Plessen would be left with the worthless remedy of suing an uncollectible entity for payment of rent due for the unexpired portion of the ten-year lease term. In addition, the absence of a personal guaranty renders the indemnity provisions of the Hamed Lease in section 10.3 worthless. See Exhibit I, § 10.3.

Personal guaranties are standard in long-term commercial leases. Plessen is the landlord on a thirty-year lease⁹ with Dockside Convenience, LLC (“Dockside”), which operates a convenience store and gas station on Plessen land near Mandela Circle in St. Thomas under the dba “Giant Gas.” Dockside’s principals have given personal guaranties to back up Dockside’s

⁹The fact that the Hamed Lease is structured as a ten-year lease with two ten-year options to renew, rather than a thirty-year lease, is also detrimental to Plessen. Plessen has followed a policy of not giving options to renew in long-term commercial leases, because placing the decision to either extend a term or not solely with the lessee, instead of making it a matter of mutual agreement at the end of the initial term, is not in Plessen’s interests. See Exhibit K, Yusuf Declaration, ¶ 14. In contrast to the Hamed Lease, Plessen has a thirty-year term in the Dockside lease. Id.

rent obligation to Plessen in the lease (the "Giant Gas Lease"). See Exhibit K, Yusuf Declaration, ¶ 9. In addition, Yusuf himself has personally guaranteed the corporate rent obligations of Defendant United Corporation, which is the named lessee under the lease with Tutu Park, Ltd. covering Plaza Extra – Tutu Park. Id. at ¶ 9. The absence of a personal guaranty of the Hameds to back up the New Hamed Company's long-term rent obligations under the Hamed Lease is prejudicial to Plessen.

The assignment clause in the Hamed Lease is also detrimental to Plessen's interests. The lease is freely assignable, pursuant to section 4.0, see Exhibit I, § 4, and not subject to the consent of Plessen. This means that Plessen has no right to reject a proposed assignee for creditworthiness or any other reason it deems appropriate, which is customary in commercial leases. Exhibit K, ¶ 10. Although the New Hamed Company would remain a guarantor for the rent obligations of any assignee, the free assignability of the Hamed Lease coupled with the absence of personal guarantees makes the continuing guaranty by the New Hamed Company, a start-up, worthless.

The rent structure in the Hamed Lease is also problematic. The rent in the Hamed Lease does not go up in defined, pre-established dollar amounts or percentages periodically, as do most long-term commercial leases. Instead, any increases in the Hamed Lease are tied only to the consumer price index (CPI) for future years, which means that rent amounts over the course of three ten-year terms are uncertain and unknowable, and, most alarmingly, not subject to negotiation upon exercise of any of the ten-year options to renew. See Exhibit I, § 2.3.2. In the Giant Gas lease, by contrast, there are substantial rent increases over the course of the thirty-year term, some of which are 25% or more, and there is no tie to the CPI. See Exhibit K, ¶ 11.

The insurance provisions in the Hamed Lease also favor the Hameds at Plessen's expense. The Hamed Lease requires that the lessee obtain hazard insurance at \$5,000,000, which is well below the replacement cost of the leased premises. In addition, the Hamed Lease excludes windstorm (hurricane) coverage from the lessee's requirement to obtain insurance, while the Giant Gas lease contains no such exclusion. See Exhibit K, ¶ 13.

In short, the Hamed Lease favors the lessee in unusual and significant ways, to the clear detriment of Plessen. The Hameds, who have the burden of showing the intrinsic fairness to Plessen of the lease in order to overcome the presumption of voidability, cannot do so. The Court should accordingly nullify the Board Resolution approving the Hamed Lease and void the lease.

B. The Ratification of the \$460,000 Misappropriation Should Be Rescinded.

The Verified Complaint in this case alleges that on March 27, 2013, Waleed, along with his brother, Mufeed, issued a Plessen check in the amount of \$460,000 payable to Waleed, which was deposited into Waleed's personal account. It is further alleged that this withdrawal was not in any way authorized. See Verified Complaint, ¶¶ 25-29. Waleed has never come forward with any evidence that he sought or obtained any authorization from the Board of Directors or shareholders of Plessen before he took \$460,000 of Plessen's money.¹⁰ The Board resolution which treats Waleed's theft of \$460,000 from Plessen as authorized, and characterizes it as a "dividend" is obviously an interested director transaction. The Hameds cannot show the intrinsic fairness of their attempt to whitewash this misappropriation of corporate funds, and the Resolution approving it should be nullified.

¹⁰Indeed, Waleed has as a practical matter admitted his wrongdoing by causing \$230,000 (half of the \$460,000) to be deposited into the registry of the Court after the filing of this case. This *post hoc* transaction does not of course alter the illegality of his taking the \$460,000.

C. The Board's Retention of Jeffrey Moorhead Violates the Bylaws and Should be Rescinded.

As noted above at footnote 5, Attorney Moorhead was given and negotiated a \$20,000 retainer check drawn on Plessen's bank account before he was even purportedly authorized to be engaged by Plessen at the April 30 Board Meeting. This shows a complete disregard for even the appearance of compliance with the norms and requirements of corporate governance by both Attorney Moorhead and the Hameds. Moreover, since there was absolutely no discussion at the sham meeting regarding any of the proposed resolutions, Yusuf has no clue what qualifications Moorhead has to serve as counsel for Plessen, what the terms of his proposed engagement are, whether other candidates were considered, and what conflicts, if any, Moorhead may have. The Bylaws of Plessen provide that the Board of Directors may appoint a General Counsel who is "to have dominion over all matters of legal import concerning the Corporation." Exhibit C, Plessen Bylaws, ¶ 7.3. The retention of Attorney Moorhead flies in the face of that Bylaw.

Suffice it to say that Attorney Moorhead has never bothered to contact Yusuf or any member of his family to discuss his engagement or proposed course of action, which causes Yusuf to seriously doubt that Attorney Moorhead will be evenhanded in his representation of the corporation, or instead will act only to advance the interests of the Hamed shareholders, at the expense of the Yusuf shareholders. See Exhibit K, ¶ 17. Since the Hameds selected Attorney Moorhead in the face of the General Counsel Bylaw and without any input from Yusuf, and caused a retainer to be paid to him even before they voted to approve his retention, the resolution approving his retention, besides running afoul of the Bylaws, is an interested director act that is presumptively voidable. The Hameds did not even attempt to show at the board meeting – and cannot show – that the Moorhead resolution is intrinsically fair to Plessen, and Attorney

Moorhead has not even communicated with Yusuf, let alone tried to give assurances that he will not represent Plessen as if it were wholly owned by Hamed. The Court should accordingly void the resolution and Attorney Moorhead's engagement.

D. The Court Should Enjoin Payments of Future Dividends, Except by Vote of the Shareholders.

In an effort to carry out the resolution authorizing an additional dividend of up to \$200,000 that was purportedly approved at the sham meeting, Waleed and his brother, Mufeed, issued two checks of May 12, 2014 each in the amount of \$100,000, drawn on Plessen's account at Scotiabank and made payable to Hamed and Yusuf as "dividend distribution." See Exhibit L – Copies of Checks. These checks were issued even though in 2010, Waleed Hamed and Mike Yusuf signed a document at Scotiabank which required drawer signatures of both Waleed and either Yusuf or Mike on any check. See Exhibit E. Yusuf did not present his \$100,000 check for payment and Hamed's check was not honored on presentment. While the two-signature requirement offers some protection to Yusuf, it is not absolute, as Waleed's successful negotiation of the \$460,000 check with only his and his brother's signature demonstrates. For all of the same reasons that the Court in the 370 Case has previously ordered that "no funds will be disbursed from supermarket operating accounts without the mutual consent of Hamed and Yusuf (or designated representative(s))," Hamed v. Yusuf, 58 V.I. at 138, this Court should similarly enjoin anybody from writing checks from Plessen's bank accounts without the mutual written consent of Hamed and Yusuf, or designated representatives. The Court's analysis in the 370 Case of the need for a preliminary injunction as to disbursements from supermarket operating accounts applies equally to the Plessen bank accounts, and the unauthorized taking of \$460,000

and the recent attempts to take out \$200,000 demonstrate the urgent necessity of extending the preliminary injunction to cover Plessen monies.

E. The Statutory Procedures for Replacing Yusuf as Resident Agent Have not Been Observed, and this Action of the Board Should also be Rescinded.

As indicated above, retention of Attorney Moorhead must be nullified as an unauthorized transaction and because it is a violation of the Bylaws. The Hamed directors also passed a resolution appointing Attorney Moorhead as "Registered Agent" (resident agent) of Plessen. Yusuf was appointed Resident Agent in the Articles of Incorporation of Plessen. The procedures under 13 V.I.C. §§ 52-55 as to change of Resident Agent have not been followed, including, inter alia, the requirement of obtaining the signoff of the Secretary of Plessen – Yusuf – and the requirement to obtain, file and certify the resignation of the current Resident Agent – also Yusuf. Because these procedural steps have not been undertaken, the resolution authorizing the change of Resident Agent should be nullified.

F. A Receiver Should Be Appointed To Dissolve Plessen And Liquidate Its Assets.

Until the hastily called Special Meeting of the Board of Directors on April 30, 2014, there have been no actual meetings of Plessen's shareholder or directors since the corporation's formation in 1988. See Exhibit K, ¶ 15. The very fact that Hamed called this meeting to purportedly approve the Hamed Lease, among other self-dealing actions, shows he understood that there was a hopeless deadlock in Plessen's business affairs. The sham meeting and the corrupted byproducts of that meeting, including the Hamed Lease that serves as a linchpin of the Hamed Plan, simply reveal the misguided lengths to which Hamed will go to circumvent the deadlock.

While it may be argued that before a Receiver can be appointed for Plessen, this Court should first summarily order an election of directors, pursuant to V.I. Code Ann. tit. 13, § 193, and then appoint a Receiver, pursuant to V.I. Code Ann. tit. 13, § 195, only if the vote is equally divided at such election, Plaintiff respectfully submits that such an election would be a complete waste of time because it is forgone conclusion that the shareholder vote would be equally divided along family lines.

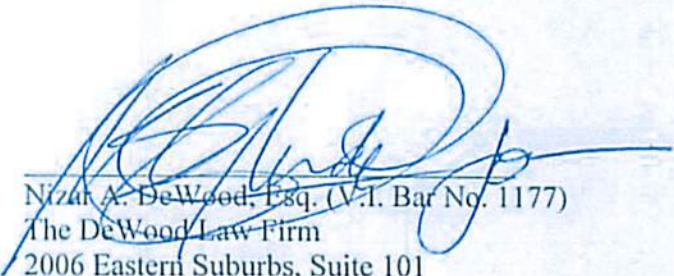
As pointed out at page 2 of this Brief, forty years ago, Circuit Judge Maris penned the opinion in Moran v. Edson, 493 F. 2d 400, 11 V.I. 166 (3d Cir 1974), which provides timeless lessons regarding hopelessly deadlocked corporations. As the Moran Court explained:

13 V.I.C. § 195 implements the general rule that a court of equity may appoint a receiver when there are such dissensions in the board of directors of a corporation or between two groups of its stockholders, each holding an equal number of shares, that it is impossible to carry on the business with advantage to the parties interested, even though the corporation is solvent. And in such a case the court may direct the sale of the corporate property for the protection of the creditors and benefit of the stockholders and order a dissolution of the corporation.

Id. at 407-408 (citations omitted).

Plaintiff respectfully submits that this is just “such a case” and that the Court should, after nullifying the actions putatively taken by Plessen’s board of directors on April 30, 2014, “direct the sale of the corporate property for the protection of the creditors and benefit of the stockholders and order dissolution of” Plessen. Given that the shareholders, officers, and directors of Plessen have demonstrated that they cannot agree on how to accomplish such dissolution and liquidation, the Court should appoint a Receiver to perform these acts.

Dated: May 20, 2014



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The DeWood Law Firm
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Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2014, I caused the foregoing Plaintiff's Brief in Support of Motion To Nullify Plessen Enterprises, Inc.'s Board Resolutions, To Void Acts Taken Pursuant To Those Resolutions, And To Appoint Receiver of to be served upon the following via e-mail:

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

YUSUF YUSUF, derivatively on behalf of)
 PLESSEN ENTERPRISES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 WALEED HAMED, WAHEED HAMED,)
 MUFEEED HAMED, HISHAM HAMED, and)
 FIVE-H HOLDINGS, INC.,)
)
 Defendants,)
)
 and)
)
 PLESSEN ENTERPRISES,)
)
 Nominal Defendant.)
)
 _____)

CIVIL NO. SX-13-CV-120
 ACTION FOR DAMAGES
 AND INJUNCTIVE RELIEF
 JURY TRIAL DEMANDED

14 MAY 20 A 4:13
 ST. CROIX

ORDER

THIS MATTER is before the Court on Plaintiff Yusuf Yusuf's Motion to Nullify Plessen Enterprises, Inc.'s Board Resolutions, To Void Acts Taken Pursuant to Those Resolutions, and To Appoint Receiver. The premises having been considered, it is hereby

ORDERED that the Motion is GRANTED, as follows:

1. The Board of Director's Resolutions for Plessen Enterprises, Inc. ("Plessen") on April 30, 2014 are hereby declared null and void.
2. As a result of this Order,
 - a. The attempt to ratify any and all actions of Waleed Hamed to remove and distribute Plessen funds in the amount of \$460,000.00 as a dividend is null and void and no ratification or approval of that action is effective.
 - b. The attempt by the President of Plessen to enter into a lease agreement with KAC357, Inc. is null and void and any documentation purporting to evidence such lease shall be removed from the public records and Plaintiff shall record this Order with the Office of the Recorder of Deeds for St. Croix.

- c. The attempt to retain Attorney Jeffrey Moorhead shall be null and void and Attorney Moorhead's engagement on behalf of Plessen is null and void having been entered into without the requisite authority.
 - d. That no further attempt shall be made to remove funds from Plessen's bank accounts without the written consent of Mohammed Hamed and Fathi Yusuf or their designated representative.
 - e. That the attempt to remove Fathi Yusuf as the registered agent of Plessen is null and void and any and all documentation purporting to evidence such removal shall be retracted and removed from the public records and Defendants shall file a copy of this Order with the Office of the Lt. Governor, Corporations Division.
3. For the same reasons it was previously ordered that "no funds will be disbursed from supermarket operating accounts without the mutual consent of [Mohammed] Hamed and [Fathi] Yusuf (or designated representative(s)), Hamed v. Yusuf, 58 V.I. 117, 138 (Super. Ct. 2014), this Court similarly enjoins all parties to this case from writing checks or from withdrawing any funds from Plessen's bank accounts without the mutual written consent of Hamed and Yusuf or their designated representatives.

Dated: May , 2014

Harold W.J. Willocks, JUDGE

A TTEST:
ESTRELLA GEORGE
Acting Clerk of the Court

By: _____
Court Clerk Supervisor

**INDEX OF EXHIBITS TO
PLAINTIFF'S BRIEF IN SUPPORT OF MOTION TO NULLIFY PLESSEN ENTERPRISES, INC.'S
BOARD RESOLUTIONS, TO VOID ACTS TAKEN PURSUANT TO THOSE RESOLUTIONS, AND
TO APPOINT RECEIVER**

1. **Exhibit A** - Notice of Special Meeting of Board of Directors of Plessen (without Proposed Lease)
2. **Exhibit B** - Response to Notice of Board Meeting
3. **Exhibit C** - Plessen Bylaws
4. **Exhibit D** - Printout from February 14, 2013 List of Corporate Officers for Plessen
5. **Exhibit E** - Scotiabank Records Regarding Authorized Signatory
6. **Exhibit F** - DVD of the audio visual recording of the April 30, 2014 meeting
7. **Exhibit G** - Email from Joel H. Holt attaching April 30, 2014 Resolutions of the Board of Directors as Exhibit A to his Response to Yusuf's Emergency Motion
8. **Exhibit H** - Check to Attorney Moorhead dated April 25, 2014
9. **Exhibit I** - Hamed Lease
10. **Exhibit J** - Memorandum of Commercial Lease
11. **Exhibit K**- Yusuf Declaration
12. **Exhibit L** - Copies of Checks

PLESSEN ENTERPRISES, INC.

To: Fathi Yusuf

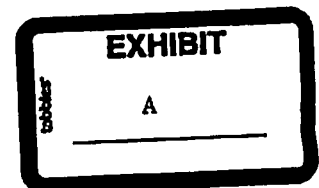
From: Mohammad Hamed

Date: April 28, 2014

Pursuant to Section 7.2 B. of the By-Laws of Plessen Enterprises, Inc., please hand-deliver the attached notice to Waleed Hamed today (and yourself) regarding the Special Meeting of the Board of Directors to be held at 10:00 AM on April 30, 2014, at the Office at Plaza Extra East located at the United Shopping Plaza, located at 4C & D Sion Farm, St. Croix, USVI. In the event you may neglect to do so or are just unable to do so, I will serve a copy of the notice on Waleed Hamed as well.

Dated: April 28, 2014


Mohammad Hamed, President



**NOTICE OF SPECIAL MEETING OF BOARD OF DIRECTORS OF
PLESSEN ENTERPRISES, INC.**

**To: Waleed Hamed, Director
Fathi Yusuf, Director
Mohammad Hamed, Director**

Notice is hereby given that the President of Plessen Enterprises, Inc., Mohammad Hamed, has called a Special Meeting of the Board of Directors of Plessen Enterprises, Inc. pursuant to Section 2.6 of the corporate By-Laws to be held at 10:00 AM on April 30, 2014, at the Office at Plaza Extra East located at the United Shopping Plaza, located at 4C & D Sion Farm, St. Croix, USVI, to discuss the following new business:

- 1) Ratification of the past withdrawal of funds in May of 2013 by Waleed Hamed in the amount of \$460,000 as dividends of the corporation;**
- 2) Approval of a lease for KAC357, Inc. (copy attached) for the rental of the building and adjoining improvements located at the corporation's property located at 14 Estate Plessen, St. Croix, where the current Plaza Extra Supermarket is located.**

SPECIAL NOTICE: Pursuant to subsection (e) of the ELEVENTH section of the Articles of Incorporation, it should be noted that Waleed Hamed, a director in Plessen Enterprises, Inc., has disclosed (and hereby further discloses to the entire Board) that he has a financial interest in KAC357, Inc. as a 33.33% shareholder in said company and may act as an officer and/or director in the company in the future;

- 3) Retention of counsel, Jeffrey Moorhead, to represent the corporation in the pending litigation filed against Plessen Enterprises, Inc. by (1) United Corporation and Fathi Yusuf, Case No. STX-12-CV-370, and (2) the lawsuit naming Plessen Enterprises, Inc. as a party defendant in *Yusuf Yusuf v. Waleed Hamed et al.*, Case No. SX-13-CV-120.**

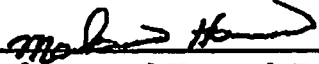
- 4) **The approval of the issuance of additional dividends up to \$200,000 from the company's bank account to the shareholders.**
- 5) **The removal of Fathi Yusuf as the Registered Agent of the corporation and the appointment of Jeffrey Moorhead as the new Registered Agent.**

As permitted by the by-laws, any of the three Directors may attend the meeting by telephone by calling the conference call in number that has been set up as follows:

Conference Number: 1 (862) 902-0250

Access Code: 831230 #

Dated: April 28, 2014



**Mohammad Hamed, President
Plessen Enterprises, Inc.**

PLESSEN ENTEPRISES, INC.

Response To Request For Special Meeting Of Board Of Directors

TO: MOHAMMED HAMED, President
WALEED HAMED, Vice-President
Maher Yusuf, Director

FROM: FATHI YUSUF, Secretary and Treasurer of the Corporation

RE: PROPOSED APRIL 30TH, 2014 SPECIAL MEETING OF BOARD OF DIRECTORS



This note is in response to your request directed to me as of April 28, 2014, to issue a Notice of a Special Meeting of the Board of Directors of Plessen Enterprises, Inc. (the "Corporation"), to be held on April 30, 2014.

Under the Bylaws, it is up to the Secretary of the Board to issue such Notice of Meeting. Your request was made to me in my capacity as Secretary of the Corporation.

Upon information and belief, the Notice is deficient because it is only addressed to three directors when, in fact, there are four directors, including Maher Yusuf.

For the record, the Corporation is owned on a 50/50 basis by two (2) families and those families are represented by two (2) shareholders as principals representing the families: Mohammed Hamed and myself, Fathi Yusuf. It is a privately-owned close corporation where matters of significance to the Corporation are subject to decision by the Shareholders not by the Board of Directors.

As a close corporation, the Shareholders also have a fiduciary duty to one another that must be respected.

In your request for a Special Meeting of the Board of Directors, you listed a five-item agenda for the proposed Board of Directors meeting (the "Agenda"), all subjects

which go to the vitals of the Corporation – the ratification of your son Waleed Hamed's unauthorized and unlawful withdrawal of \$460,000 as past dividends taken by Waleed Hamed, the approval of future dividends, the disposition by Lease to KAC357, Inc. (a company owned by Waleed Hamed and, upon information, your other sons) of a substantial asset of the Corporation, the retention of outside counsel, and appointment of a new Resident Agent.

One of the main items on the Agenda is a Lease which by its express terms is premature for consideration, as is reflected in Section 2.3.4 of the proposed Lease which states as follows:

“The Parties recognize that there is currently a partnership between Fathi Yusuf and Mohammed Hamed operating a grocery business in the Demised Premises. The Tenant shall not be granted possession of the Premises so long as this partnership is in possession of the Premises. Likewise, rent shall not be due until the Tenant has possession of the Premises.”

In addition, the Demised Premises are a significant component of a previously filed litigation and the Board of Directors purporting to take action on the proposed Lease is an interference with matters already pending before the courts. Indeed, any unilateral action by the Hamed Directors of the Corporation with respect to the proposed Lease constitutes a clear violation of the Preliminary Injunction entered on April 25, 2013 in Case No. SX-12-CV-370.

Moreover, the proposed Lease that is on the Agenda for approval has several terms that are not in the interests of the Corporation.

The other items on the Agenda are equally significant, including a request that a previously unauthorized withdrawal of \$460,000 to Waleed Hamed be now declared a lawful dividend. Waleed Hamed is an interested director in this matter who, along with his brothers, is the subject of a civil lawsuit for his malfeasance. Naturally, as the father of director Waleed Hamed, you are certain to approve all of the five items. No disclosure

is given as to the authority for such an unauthorized withdrawal or the reason that the funds were paid without approval of the Corporation's Shareholders; nor is there any disclosure of the use of the withdrawn funds.

Approval of a future \$200,000 dividend – another Agenda item – is similarly significant and there should be a full explanation of that dividend as to rationale and financial feasibility, not to mention approval by the Shareholders.

Finally, two items involving the hiring of outside counsel Jeffrey Moorehead appear on the Agenda. The first item is to retain Attorney Moorehead to represent the Corporation in certain matters. The Yusuf shareholders of the Corporation do not consent to such engagement. In addition, the item seems to hint of Indemnification and since the directors requesting the action are interested, any such indemnification is for the Shareholders. 13 V.I.C. §67a(d)(3).

Attorney Moorehead also figures in the Agenda item for replacement of the Resident Agent. I am and have been the Resident Agent of the Corporation since its inception, appointed by the Shareholders and once again no rationale is given as to why Attorney Moorehead should be substituted. The Virgin Islands Code has a prescribed procedure for replacement of a Resident Agent which has not been followed here. See 13 V.I.C. §§52-55.

In short, the so-called "Notice of Special Meeting of Board of Directors of Plessen Enterprises, Inc." is prejudicial to the other Shareholders and a subterfuge to accomplish through invalid Board of Directors action approval of items on an Agenda that should more properly be submitted to a Special Meeting of the Shareholders of the Corporation, if at all.

On the basis of this note, I am prepared to prepare and distribute a Notice of Special Meeting of the Shareholders of Plessen Enterprises, Inc., following the procedures for the calling of such a meeting but submission of such items, many

involving interested directors, to a Board of Directors meeting, would be contrary to the law and foundational documents of the Corporation.

Time is of the essence; please let us know your response as soon as possible.

Date: April 29, 2014

A handwritten signature in black ink, appearing to read 'Fathi Yusuf', written over a horizontal line.

Fathi Yusuf, Secretary and Treasurer

**BY-LAWS
OF
PLESSEN ENTERPRISES, INC.
Adopted on April 30, 1997**

**ARTICLE I
STOCKHOLDERS**

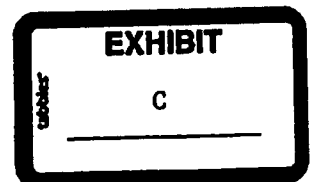
Section 1.1 Annual Meeting. The annual meeting of the Stockholders of the Corporation shall be held each year during the third month after the close of the Corporation's fiscal year, on a day to be duly designated by the Board of Directors, for the purpose of electing Directors and for the transaction of any other corporate business that may come before the meeting.

Section 1.2 Special Meetings. A special meeting of the Stockholders may be called, at any time and for any purpose or purposes, by the President, by a Vice President, or by a majority of the Board of Directors. A special meeting of the Stockholders shall be called forthwith by the President, by a Vice President, by the Secretary, or by any Director of the Corporation at any time, upon the written request of the Stockholders entitled to cast at least twenty-five percent (25%) of all the votes entitled to be cast at the meeting. However, a special meeting need not be called to consider any matter that is substantially the same as a matter voted on at any special meeting of the Stockholders held during the preceding twelve (12) months, unless requested by the Stockholders entitled to cast a majority of all votes entitled to be cast at the meeting. Whenever a special meeting is called by written request of the Stockholders, the request shall state the purpose or purposes of the meeting. Business transacted at any special meeting of Stockholders shall be confined to the purpose or purposes stated in the notice of the meeting.

Section 1.3. Place of Holding Meetings. All meetings of Stockholders shall be held at the principal office of the Corporation, or elsewhere in the United States or its Territories as may be designated by the Board of Directors.

Section 1.4. Notice of Meetings. Written notice of each meeting of the Stockholders shall be given to each Stockholder in accordance with Section 7.2 of these By-Laws, at least ten (10) days and not more than ninety (90) days before the meeting. The notice shall state the place, day, and hour at which the meeting is to be held; in the case of a special meeting, the notice also shall state briefly the purpose or purposes of that special meeting.

Section 1.5. Quorum. Except as otherwise specifically provided by law, by the Charter of the Corporation, or by these By-Laws, at each meeting of the Stockholders, the presence in person or by proxy of the holders of record of a majority of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at the meeting constitutes a quorum. If less than a quorum is in attendance at the time for which the meeting has been called, the meeting may be adjourned from time to time by a majority vote of the Stockholders present in person or by proxy, without any notice other than by announcement at the meeting, until a quorum is in attendance. At any adjourned meeting



at which a quorum is in attendance, any business may be transacted that might have been transacted if the meeting had been held as originally called.

Section 1.6. Conduct of Meetings. Each meeting of the Stockholders shall be presided over by a chairman. The chairman shall be the President of the Corporation or, if the President is not present, a Vice President, or, if none of these Officers is present, a person to be elected at the meeting. The Secretary of the Corporation or, if the Secretary is not present, any Assistant Secretary shall act as secretary of the meeting; in the absence of the Secretary and any Assistant Secretary, the chairman of the meeting shall appoint a person to act as secretary of the meeting.

Section 1.7. Voting.

A. At each meeting of the Stockholders, every Stockholder entitled to vote at the meeting has one (1) vote for each share of stock standing in his or her name on the books of the Corporation on the date established for the determination of Stockholders entitled to vote at the meeting. This vote may be cast by the Stockholder either in person or by written proxy signed by the Stockholder or by the Stockholder's duly authorized attorney in fact. Unless the written proxy expressly provides for a longer period, it shall bear a date not more than eleven (11) months prior to the meeting. The written proxy shall be dated, but need not be sealed, witnessed, or acknowledged.

B. Except as otherwise specifically provided by law, by the Charter of the Corporation, or by these By-Laws, all elections shall be had and all questions shall be decided by a majority of the votes cast at a duly constituted meeting. If the chairman of the meeting so determines, a vote by ballot may be taken upon any election or matter. A vote by ballot shall be taken upon the request of the Stockholders entitled to cast at least ten percent (10%) of all the votes entitled to be cast on the election or matter. The chairman of the meeting may appoint one or more tellers of election. In that event, the proxies and ballots shall be held by the tellers, and all questions as to the qualification of voters, the validity of proxies and the acceptance or rejection of votes shall be decided by the tellers. If no teller is appointed, these duties shall be performed by the chairman of the meeting.

Section 1.8 Informal Action by Stockholders. Any action required or permitted to be taken at any meeting of the Stockholders may be taken without a meeting pursuant to the provisions of Title 13 V.I.C. Section 196, as from time to time amended.

**ARTICLE II
BOARD OF DIRECTORS**

Section 2.1. General Powers. The property and business of the Corporation shall be managed under the direction of the Board of Directors of the Corporation.

Section 2.2. Number and Term of Office. The number of Directors shall be such

number as may be designated from time to time by resolution of a majority of the entire Board of Directors. However, the number of Directors may not be less than three. Directors need not be Stockholders. Except as otherwise provided in these By-Laws, the Directors shall be elected each year at the annual meeting of the Stockholders, and each Director shall serve until his or her successor is duly elected and qualifies.

Section 2.3. Removal of Directors. Except as otherwise provided in this Section and unless the Charter of the Corporation provides otherwise, the Stockholders may remove any Director from office, with or without cause, by the affirmative vote of a majority of all the votes entitled to be cast for the election of Directors.

Section 2.4. Filling of Vacancies.

A. If a vacancy in the Board of Directors results from the removal of a Director, the Stockholders may elect a successor to fill that vacancy. However, if the Stockholders of any class or series are entitled separately to elect one or more Directors, the Stockholders of that class or series may elect a successor to fill any vacancy that results from the removal of a Director elected by the class or series.

B. Except as otherwise provided in this Section, (i) if a vacancy in the Board of Directors results from an increase in accordance with these By-Laws of the number of Directors, a majority of the entire Board of Directors may elect the person to fill that vacancy, and (ii) if a vacancy in the Board of Directors results from any other cause whether by reason of a Director's death, resignation, disqualification, or otherwise a majority of the remaining Directors, whether or not sufficient to constitute a quorum, may elect a successor to fill that vacancy.

C. A Director elected to fill a vacancy shall serve until the next annual meeting of the Stockholders and, thereafter, until his or her successor is duly elected and qualifies.

Section 2.5. Annual and Regular Meetings. The annual meeting of the Board of Directors shall be held immediately following the annual Stockholders' meeting at which a Board of Directors is elected. Regular meetings of the Board of Directors may be held, without notice, at such time and place as determined from time to time by resolution of the Board. However, notice of every resolution of the Board fixing or changing the time or place for the holding of regular meetings of the Board shall be mailed to each Director at least ten (10) days before the first meeting held pursuant to the resolution. Any business may be transacted at the annual meeting and at any regular meeting of the Board.

Section 2.6. Special Meetings. A special meeting of the Board of Directors may be called, at any time and for any purpose or purposes, by the President or by a Vice President. A special meeting of the Board of Directors shall be called forthwith by the President or by the Secretary upon the written request of a majority of the Board of Directors. Written notice of each special meeting of the Board of Directors shall be given to each Director by

mailing that notice, in accordance with Section 7.2 of these By-Laws, at least three (3) days before the meeting, or by telegraphing or hand-delivering that notice at least one (1) day before the meeting. Any business may be transacted at any special meeting of the Board. Any Director may, in writing, waive notice of the time, place, and purposes of any special meeting. Any meeting of the Board of Directors whether an annual, regular, or special meeting may be adjourned from time to time to reconvene at the same or some other place, and no notice need be given of the reconvened meeting other than by announcement at the adjourned meeting.

Section 2.7. Place of Meeting and Offices. The Board of Directors may hold its meetings, have one or more offices, and keep the books of the Corporation at such place or places, either within or without the Territory of the United States Virgin Islands, as determined from time to time by resolution of the Board of Directors or by written consent of all of the Directors. Members of the Board of Directors or a committee of the Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time, and such participation in a meeting shall be deemed to constitute presence in person at such meeting.

Section 2.8. Quorum. At each meeting of the Board of Directors, a majority of the entire Board of Directors constitutes a quorum for the transaction of business. If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting from time to time. Except as otherwise specifically provided by law, by the Charter of the Corporation, or by these By-Laws, the act of a majority of the Directors present at any meeting at which there is a quorum constitutes the act of the Board of Directors.

Section 2.9. Compensation of Directors. Directors shall not receive any stated salary for their services as such. However, each Director is entitled to receive from the corporation reimbursement of the expenses incurred by the Director in attending any annual, regular, or special meeting of the Board or of a committee of the Board. In addition, by resolution of the Board of Directors, a fixed sum may be also be allowed for attendance at each annual, regular, or special meeting of the Board or of a committee of the Board. Reimbursement and compensation to a Director for attending a meeting shall be payable even if the meeting was adjourned because of the absence of a quorum. Nothing contained in this Section shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation for that service.

Section 2.10. Executive Committee. By resolution of a majority of the entire Board of Directors, the Board may appoint an executive committee consisting of two or more Directors. The executive committee may exercise all of the powers and authority of the Board of Directors between meetings of the Board, except the power or authority to declare dividends or distributions on stock, to issue stock, to recommend to the Stockholders any action requiring Stockholder approval, to alter or amend these By-Laws, to approve any merger or share exchange not requiring Stockholder approval, or to fill vacancies in the

Board of Directors or in the executive committee's own membership. Vacancies in the executive committee shall be filled by the Board of Directors. The executive committee shall meet at stated times or on notice to all of its members by any one of its members. It shall fix its own rules of procedure. Unanimous vote or consent shall be necessary in every case. The executive committee shall keep regular minutes of its proceedings and report those proceedings to the Board of Directors. Without limiting the generality of the foregoing, the executive committee is specifically authorized to execute customary banking resolutions for corporate accounts and for borrowing.

Section 2.11. Additional Committees. By resolution of a majority of the entire Board of Directors, the Board may designate one or more additional committees, each committee to consist of two or more Directors. To the extent provided in the resolution, each committee may exercise all of the powers and authority of the Board of Directors, except the power or authority to declare dividends or distributions on stock, to issue stock, to recommend to the Stockholders any action requiring Stockholder approval, to alter or amend these By-Laws, to approve any merger or share exchange not requiring Stockholder approval, or to fill vacancies in the Board of Directors or in the committee's own membership. Vacancies in a committee shall be filled by the Board of Directors. Each committee shall have the name designated from time to time by resolution of the Board of Directors.

Section 2.12. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board may be taken without a meeting pursuant to the provisions of Title 13 V.I.C. Section 67(b), as from time to time amended.

ARTICLE III **OFFICERS**

Section 3.1. Election, Tenure, and Compensation. The Officers of the Corporation shall be a President, a Secretary, and a Treasurer. The Corporation shall have such other Officers e.g., one or more Vice Presidents and one or more Assistant Secretaries or Assistant Treasurers as the Board of Directors from time to time considers necessary for the proper conduct of the business of the Corporation. The Officers shall be elected by the Board of Directors and shall serve at the pleasure of the Board. The President shall be a Director; the other Officers may, but need not be, Directors. Any two or more offices, except those of President and Secretary, may be held by the same person; however, no Officer may execute, acknowledge, or verify any instrument in more than one capacity if that instrument is required by law or by these By-Laws to be executed, acknowledged, or verified by two or more Officers. The compensation or salary paid all Officers of the Corporation may be fixed by resolutions of the Board of Directors. Except where otherwise expressly provided in a contract duly authorized by the Board of Directors, all Officers, agents, and employees of the corporation are subject to removal at any time by the Board of Directors and shall hold office at the discretion of the Board of Directors or of the Officers appointing

them.

Section 3.2. Powers and Duties of the President. The President shall be the Chief Executive Officer of the Corporation and shall have general charge and control of all its business affairs and properties. The President shall preside at all meetings of the Stockholders. The President may be a member of the Board of Directors and, if a member, shall preside at all meetings of the Board of Directors unless the Board of Directors, by a majority vote of a quorum of the Board, elects a Chairman other than the President to preside at meetings of the Board of Directors. The President may sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation. The President shall have the general powers and duties of supervision and management usually vested in the office of president and of corporation. The President shall be an ex-officio voting member of all standing committees. The President shall perform such other duties as from time to time are assigned to the President by the Board of Directors.

Section 3.3 Powers and Duties of the Vice President. The Board of Directors may appoint one or more Vice Presidents. Each Vice President (except as otherwise provided by resolution of the Board of Directors) shall have the power to sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation. Each Vice President shall have such other powers and shall perform such other duties as from time to time are assigned to that Vice President by the Board of Directors or by the President. In case of the absence or disability of the President, the duties of that office shall be performed by a Vice President; the taking of any action by any Vice President in place of the President shall be conclusive evidence of the absence or disability of the President.

Section 3.4 Secretary. The Secretary shall give, or cause to be given, notice of all meetings of Stockholders and Directors and all other notices required by law or by these Stockholders and of the Directors in books provided for that purpose and shall perform such other duties as from time to time are assigned to the Secretary by the Board of Directors or the President. The Secretary shall attest to or witness all instruments executed by or on behalf of the Corporation requiring same. In general, the Secretary shall perform all the duties generally incident to the office of Secretary of a corporation, subject to the control of the Board of Directors and the President.

Section 3.5. Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation and shall keep full and accurate account of receipts and disbursements in books belonging to the corporation. The Treasurer shall deposit all of the Corporation's money and other valuables in the name and to the credit of the Corporation in such depository or depositories as from time to time designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as ordered by the Board of Directors, taking proper vouchers for those disbursements. The Treasurer shall render to the President and the board of Directors, whenever either of them so requests, an account of all of his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Directors,

for the faithful performance of the duties of his or her office and for the removal from office, of all books, papers, vouchers, money, and other property belonging to the Corporation, of whatever kind, in his or her possession or under his or her control. In general, the Treasurer shall perform all the duties generally incident to the office of treasurer of a corporation, subject to the control of the Board of Directors and the President.

Section 3.6. Assistant Secretary. The Board of Directors or the President may appoint one or more Assistant Secretaries. Each Assistant Secretary (except as otherwise provided by resolution of the Board of Directors) shall have the power to perform all duties of the Secretary in the absence or disability of the Secretary and shall have such other powers and shall perform such other duties as from time to time are assigned to that Assistant Secretary by the Board of Directors or the President. In case of the absence or disability of the Secretary, the duties of that office shall be performed by an Assistant Secretary; the taking of any action by any Assistant Secretary in place of the Secretary shall be conclusive evidence of the absence or disability of the Secretary.

Section 3.7. Assistant Treasurer. The Board of Directors may appoint one or more Assistant Treasurers. Each Assistant Treasurer (except as otherwise provided by resolution of the Board of Directors) shall have the power to perform all duties of the Treasurer in the absence or disability of the Treasurer and shall have such other powers and shall perform such other duties as from time are assigned to that Assistant Treasurer by the Board of Directors or the President. In case of the absence or disability of the Treasurer, the duties of that office shall be performed by an Assistant Treasurer; the taking of any action by any Assistant Treasurer in place of the Treasurer; the conclusive evidence of the absence or disability of the Treasurer.

Section 3.8. Subordinate Officers. The Corporation may have such subordinate officers as the Board of Directors from time to time deems advisable. Each subordinate officer shall hold office for such period and shall perform such duties as from time to time are prescribed by the Board of Directors, the President, or the committee or officer designated pursuant to this Article.

ARTICLE IV CAPITAL STOCK AND OTHER SECURITIES

Section 4.1. Issue of Certificates of Stock. The certificates for shares of the capital stock of the Corporation shall be of such form, not inconsistent with the Charter of the Corporation, as has been approved by the Board of Directors. All certificates shall be signed by the President or by a Vice President and countersigned by the Secretary or by an Assistant Secretary. Any signature or countersignature may be either manual or facsimile signature. All certificates for each class of stock shall be consecutively numbered. The name and address of the person owning the shares issued shall be entered in the

Corporation's books.

Section 4.2. Transfer of Shares. Shares of the capital stock of the Corporation may be transferred on the books of the Corporation only by the holder of those shares, in person or by his or her attorney in fact, and only upon surrender and cancellation of certificates for a like number of shares. All certificates surrendered to the Corporation for transfer shall be cancelled, and no new certificates representing the same number of shares may be issued until the former certificate or certificates for the same number of shares have been so surrendered and canceled.

Section 4.3. Registered Stockholders. The Corporation is entitled to treat the holder of record of any shares of stock as the holder in fact of those shares. Accordingly, the Corporation is not bound to recognize any equitable or other claim to, or interest in, those shares in the name of any other person, whether or not the Corporation has had express or other notice of that claim or interest, except as expressly provided by the laws of the Territory of the United States Virgin Islands.

Section 4.4. Record Date and Closing of Transfer Books. The Board of Directors may set a record date or direct that the stock transfer books be closed for a stated period for the purpose of making any proper determination with respect to Stockholders, including which Stockholders are entitled to be notified of a meeting, vote at a meeting, receive a dividend, or be allotted other rights. The record date may not be more than fifty (50) days before the date on which the action requiring the determination will be taken. The transfer books may not be closed for a period longer than twenty (20) days. In the case of a meeting of Stockholders, the record date or the closing of the transfer books shall be at least ten (10) days before the date of the meeting.

Section 4.5. Lost Certificates. The Board of Directors may direct a new certificate to be issued in place of any certificate that is alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen, or destroyed. In its discretion and as a condition precedent to the issuance of a new certificate, the Board of Directors may require the owner of the certificate or the owner's legal representative to give bond, with sufficient surety, to indemnify the Corporation against any loss or claim that may arise by reason of the issuance of a new certificate.

Section 4.6. Restrictions on Transfer. Notwithstanding any other provision of these By-Laws to the contrary, no securities issued by the Corporation may be transferred unless (i) those securities are registered with the Securities and Exchange Commission or other jurisdiction, as appropriate, or (ii) the Corporation has received an opinion of counsel for the transferor or transferee, acceptable to counsel for the Corporation, that the transfer would not violate applicable state and federal securities laws, provided, however, that the restrictions set forth in clauses (i) and (ii), above, shall be deemed waived as to a specific transfer of securities in the event the Corporation transfers such securities on its books without having received either evidence of such registration or such opinion of counsel.

ARTICLE V
BANK ACCOUNTS AND LOANS

Section 5.1. Bank Accounts.

A. Such Officers or agents of the Corporation as from time to time have been designated by the Board of Directors shall have authority to deposit any funds of the Corporation in such financial institutions as from time to time have been designated by the Board of Directors. Such Officers or agents of the Corporation as from time to time have been designated by the Board of Directors shall have authority to withdraw any or all of the funds of the Corporation so deposited in a financial institution, upon checks, drafts, or other instruments or orders of the payment of money, drawn against the account or in the name or behalf of the Corporation, and made or signed by those designated Officers or agents.

B. From time to time the Corporation shall certify to each financial institution in which funds of the Corporation are deposited, the signatures of the Officers or agents of the Corporation authorized to draw against those funds. Each financial institution with which funds of the Corporation are deposited is authorized to accept, honor, cash, and pay, without limit as to amount, all checks, drafts, or other instruments or orders for the payment of money, when drawn, made, or signed by Officers or agents so designated by the Board of Directors, until the financial institution has received written notice that the Board of Directors has revoked the authority of those Officers or agents.

C. If the Board of Directors fails to designate the persons by whom checks, drafts, and other instruments or orders for the payment of money may be signed, as provided in this Section, all checks, drafts, and other instruments or orders for the payment of money shall be signed by the President or a Vice President and countersigned by the Secretary or Treasurer or by an Assistant Secretary or Assistant Treasurer of the Corporation.

Section 5.2. Loans.

A. Such Officers or agents of the Corporation as from time to time have been designated by the Board of Directors shall have authority (i) to effect loans, advances, or other forms of credit at any time or times for the Corporation, from such banks, trust companies, institutions, corporations, firms, or persons, in such amounts and subject to such terms and conditions, as the Board of Directors from time to time has designated; and (ii) as security for the repayment of any loans, advances, or other forms of credit authorized, to assign, transfer, endorse, and deliver, either originally or in addition or substitution, any or all personal property, real property, stocks, bonds, deposits, accounts, documents, bills, accounts receivable, and other commercial paper and evidences of debt or other securities, or any rights or interests at any time held by the Corporation; and (iii) in connection with any loans, advances, or other forms of credit so authorized, to make, execute, and deliver one or more notes, mortgages, deeds of trust, financing statements, security agreements,

acceptances, or written obligations of the Corporation, on such terms and with such provisions as to the security or sale or disposition of them as those Officers or agents deem proper; and (iv) to sell to, or discount or rediscount with, the banks, trust companies, institutions, corporations, firms, or persons making those loans, advances, or other forms of credit, any and all commercial paper, bills, accounts receivable, acceptances, and other instruments and evidences of debt at any time held by the Corporation, and, to that end, to endorse, transfer, and deliver the same.

B. From time to time the Corporation shall certify to each bank, trust company, institution, corporation, firm, or person so designated, the signatures of the Officers or agents so authorized. Each bank, trust company, institution, corporation, firm, or person so designated is authorized to rely upon such certification until it has received written notice that the Board of Directors has revoked the authority of those Officers or agents.

ARTICLE VI INDEMNIFICATION

Section 6.1. Indemnification to Extent Permitted by Law. The Corporation shall indemnify to the full extent permitted by law any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was a Director, Officer, employee, or agent of the corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, or is or was serving at the request of the Corporation as a trustee or administrator or in any other fiduciary capacity under any pension, profit sharing, or other deferred compensation plan, or under any employee welfare benefit plan of the Corporation.

Section 6.2. Payment of Expenses in Advance of Final Disposition of Action. Expenses (including attorneys' fees) incurred in defending a civil, criminal, administrative, or investigative action, suit, or proceeding shall be paid by the Corporation in advance of the final disposition of that action, suit, or proceeding, on the conditions and to the extent permitted by law.

Section 6.3. Non-Exclusive Right to Indemnity; Insurer to Benefit of Heirs and Personal Representatives. The rights of indemnification set forth in this Article are in addition to all rights to which any Director, Officer, employee, agent, trustee, administrator, or other fiduciary may be entitled as a matter of law, and shall continue as to a person who has ceased to be a Director, Officer, employee, agent, trustee, administrator, or other fiduciary, and shall inure to the benefit of the heirs and personal representatives of that person.

Section 6.4. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the

Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, or is or was serving at the request of the Corporation as a trustee or administrator or in any other fiduciary capacity under any pension, profit sharing, or other deferred compensation plan, or under any employee welfare benefit plan of the Corporation, against any liability asserted against and incurred by that person in any such capacity, or arising out of that person's status as such, whether or not the Corporation would have the power or would be required to indemnify that person against that liability under the provisions of this Article or the laws of this State.

Section 6.5. Certain Persons not to be Indemnified. Notwithstanding the provisions of this Article, the Corporation may not indemnify any bank, trust company, investment adviser, or actuary against any liability which that entity or person may have by reason of acting as a "fiduciary" of any employee benefit plan (as that term is defined in the Employees Retirement Income Security Act, as amended from time to time) established for the benefit of the Corporation's employees.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 7.1. Fiscal Year. The fiscal year of the Corporation shall be such as has been duly designated by the Board of Directors.

Section 7.2. Notices.

A. Except as otherwise provided by law or these By-Laws, whenever notice is required by law or these By-Laws to be given to any Stockholder, Director, or Officer, it shall be construed to mean either (i) written notice personally served against written receipt at the address that appears for that person on the books of the Corporation, or (ii) written notice transmitted by mail, by depositing the notice in a post office or letter box, in a post-paid sealed wrapper, addressed to the Stockholder, Director, or Officer at the address that appears for that person on the books of the Corporation or, in default of any other address for a Stockholder, Director, or Officer, at the general post office situated in the city or county of his or her residence, which notice shall be deemed to be given at the time it is thus mailed.

B. All notices required by law or these By-Laws shall be given by the Secretary of the Corporation. If the Secretary is absent or refuses or neglects to act, the notice may be given by any person directed to do so by the President or, with respect to any meeting called pursuant to these By-Laws upon the request of any Stockholders or Directors, by any person directed to do so by the Stockholders or Directors upon whose request the meeting is called.

C. Any Stockholder, Director, or Officer may waive any notice required to be

given under these By-Laws.

Section 7.3. General Counsel. The Board of Directors may appoint a general counsel to have dominion over all matters of legal import concerning the Corporation. It shall be the duty of the Officers and the Directors to consult from time to time with the general counsel (if one has been appointed), as legal matters arise. The general counsel shall be given notice of all meetings of the Board of Directors, in the manner provided in Section 2.5 and 2.6 of the By-Laws, and the general counsel shall be accorded the opportunity to attend these meetings for the purpose of consulting with and advising the Board of Directors on any matters of a legal nature. The general counsel to the Corporation shall be subject to removal and replacement by the Board of Directors.

Section 7.4. Corporate Seal. The Board of Directors may provide a suitable seal, bearing the name of the Corporation, which shall be in the charge of the Secretary. The Board of Directors may authorize one or more duplicate seals and provide for their custody. Regardless of whether a seal is adopted by the Board of Directors, whenever the Corporation is required to place its corporate seal on a document, it shall be sufficient to meet the requirements of any law, rule, or regulation relating to a corporate seal to place the word ("seal") adjacent to the signatures of the person authorized to sign the document on behalf of the Corporation.

Section 7.5. Books and Records. The Corporation shall keep correct and complete books and records of its accounts and transactions and minutes of the proceedings of its Stockholders and Board of Directors and of any executive or other committee when exercising any of the powers or authority of the Board of Directors. The books and records of the Corporation may be in written form or in any other form that can be converted within a reasonable time into written form for visual inspection. Minutes shall be recorded in written form, but may be maintained in the form of a reproduction.

Section 7.6. Bonds. The Board of Directors may require any Officer, agent or employee of the Corporation to give a bond to the Corporation, conditioned upon the faithful discharge of his or her duties, with such surety and in such amount as is satisfactory to the Board of Directors.

Section 7.7. Severability. The invalidity of any provision of these By-Laws shall not affect the validity of any other provision, and each provision shall be enforced to the extent permitted by law.

Section 7.8. Gender. Whenever used in these By-Laws, the masculine gender includes all genders.

ARTICLE VIII **AMENDMENTS**

The Board of Directors has full power and authority to amend, alter, supplement, or repeal these By-Laws, or any provision of them, at any annual, regular, or special meeting a part of the general business of that meeting subject to the power of the Stockholders to amend, alter, supplement, or repeal these By-Laws, or any provision of them, at any annual meeting as part of the general business of that meeting, or at any special meeting for which the notice of that special meeting stated the substance of the proposed amendment, alteration, supplement, or repeal.



DEPARTMENT OF CONSUMER AFFAIRS
PRINT-OUT WITH A LIST OF CORPORATE
OFFICERS



Control #: 30805

Business Information

Organization Type: CORPORATION
Business Name: PLESSEN ENTERPRISES, INC.
Business Phone: 340 778-6240
Business EIN: [REDACTED]

Contact First Name: WALLEED
Last Name: HAMED
Phone #: 340-680-9395
Email: WALLY@PLAZAEXTRA.COM
Fax: 340 778-1200

Physical Address
Street1: #14 EST. PLESSEN
Street2:
City: FREDERIKSTED
State: VI ZIP: 00840
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Mailing Address
Street1: P.O. BOX 763
Street2:
City: CHRISTIANSTED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Person Information

Person 1:

First Name: MAHER
Last Name: YUSUF
Date of Birth: 04/28/1967

Position/Title: DIRECTOR
Place of Birth: JORDAN
SSN: [REDACTED]

Physical Address
Street1: #14 ESTATE PLESSEN
Street2:
City: FSTED
State: VI ZIP: 00851
Island: ST. CROIX
Country: UNITED STATES
Country of Citizenship: USA

Mailing Address
Street1: P.O. BOX 3649
Street2:
City: FSTED
State: VI ZIP: 00851
Island: ST. CROIX
Country: UNITED STATES

Have you ever been convicted of a felony or crime involving moral turpitude? N
If YES, explain the nature of the crime, date of conviction, and place of conviction:

Person 2:

First Name: WALEED
Last Name: HAMED
Date of Birth: 01/22/1962

Position/Title: VICE PRESIDENT
Place of Birth: JORDAN
SSN: [REDACTED]

Physical Address
Street1: 4 C & D ESTATE SION FARM
Street2:
City: CHRISTIANSTED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS
Country of Citizenship: USA

Mailing Address
Street1: P.O. BOX 763
Street2:
City: CHRISTIANSTED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Have you ever been convicted of a felony or crime involving moral turpitude? N
If YES, explain the nature of the crime, date of conviction, and place of conviction:

Person 3:

First Name: MOHAMMAD
Last Name: HAMED
Date of Birth: 02/17/2011

Position/Title: PRESIDENT
Place of Birth: JORDAN
SSN: [REDACTED]

Physical Address
Street1: 6F & H CARLTON
Street2:

Mailing Address
Street1: P.O. BOX 763
Street2:

City: UNIDENTIFIED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS
Country of Citizenship: USA

City: UNIDENTIFIED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Have you ever been convicted of a felony or crime involving moral turpitude? N
If YES, explain the nature of the crime, date of conviction, and place of conviction:

Person 4:

First Name: FATHY
Last Name: YUSUF
Date of Birth: 04/15/1941

Position/Title: TREASURER
Place of Birth: JORDAN
SSN: [REDACTED]

Physical Address

Street1: #26A TUTU PARK MALL
Street2:
City: ST. THOMAS
State: VI ZIP: 00802
Island: ST. THOMAS
Country: UNITED STATES
Country of Citizenship: USA

Mailing Address

Street1: #26A TUTU PARK MALL
Street2:
City: ST. THOMAS
State: VI ZIP: 00802
Island: ST. THOMAS
Country: UNITED STATES

Have you ever been convicted of a felony or crime involving moral turpitude? N
If YES, explain the nature of the crime, date of conviction, and place of conviction:

Location Information

Location 1:

Physical Address

Street1: #14 EST. PLESSEN
Street2:
City: FREDERIKSTED
State: VI ZIP: 00840
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Mailing Address

Street1: P.O. BOX 763
Street2:
City: CHRISTIANSTED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Do you have employee(s) at this location? N Trade Name/DBA: PLESSEN ENTERPRISES, INC.
Explain in detail the type of proposed business activity for which the license(s) (has/have) been requested.
RETAIL INVESTMENT/PROPEY LEASE

Location 2:

Physical Address

Street1: #6&9 EST. THOMAS
Street2:
City: ST. THOMAS
State: VI ZIP: 00802
Island: ST. THOMAS
Country: US VIRGIN ISLANDS

Mailing Address

Street1: P.O. BOX 763
Street2:
City: CHRISTIANSTED
State: VI ZIP: 00821
Island: ST. CROIX
Country: US VIRGIN ISLANDS

Do you have employee(s) at this location? N Trade Name/DBA: PLESSEN ENTERPRISES, INC.
Explain in detail the type of proposed business activity for which the license(s) (has/have) been requested.
RENTAL OF REAL PROPERTY OTHER THAN BUILDINGS

License Information

Location	License Type	Issue Date	Expire Date	Status	Fee Amount
#14 EST. PLESSEN, FREDERIKSTED,VI,00840 #6&9 EST. THOMAS, ST.THOMAS,VI,00802	RENT OF REAL PROPERTY OTHER THAN BUILDINGS [PLESSEN ENTERPRISES, INC.]	01/01/2013	01/31/2014	PENDING	130.00
Total Amount:					130.00

Payment Information

Billing Information

First Name: WALEED	Street1: P.O. BOX 24363
Last Name: HAMED	Street2:
Card Type: VISA	City: CHRISTIANSTED
Credit Card Number: XXXX-XXXX-XXXX	State: VI ZIP: 00824
Expiration Date: 10/2014	Island: ST. CROIX
Country: US	

BIR Information

First Name: WALEED	Relationship: VICE PRESIDENT
Last Name: HAMED	



*please refer to the
Attachment - By Legal
to Register*

Information Gathering Form - Account for a Private Corporate Entity

NOTE: PLEASE PROVIDE ALL OF THE REQUESTED INFORMATION & DOCUMENTATION TO EXPEDITE THE ACCOUNT OPENING PROCESS. COMPLETE & RETURN THIS FORM TO THE ATTENTION OF _____

SECTION I - DETAILS OF THE COMPANY

1. Full legal name of the company: PLESSEN ENTERPRISES INC.
Trading Name(s) (if applicable): SAME AS ABOVE

2. Mailing address of the company: P.O. BOX 763
CHRISTIANSTED
ST. CROIX, USVI 00821-0763
Physical address of the company: 4C&D ESTATE SION FARM
CHRISTIANSTED
ST. CROIX, USVI 00820

Telephone number: (340) 778-6240 Facsimile number: (340) 778-1200
E-mail address: _____ Website: _____

3. Number of employees: Full time _____ Part time _____

4. Number of years in business: _____

5. Number of years at above address: _____

6. Country of incorporation: _____

7. Address of the Company's Registered Office: 4C&D ESTATE SION FARM
CHRISTIANSTED, ST. CROIX USVI 00820

Telephone number: 340 778-6240 Facsimile number: 340 778-1200

8. Name /address / etc. of primary company contact: WALEED HAMED
4C&D ESTATE SION FARM CHRISTIANSTED, ST. CROIX USVI 00820

Telephone number: () _____ Facsimile number: () _____
E-mail address: _____

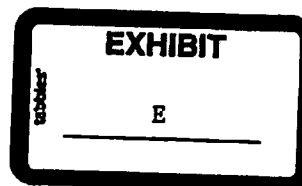
9. Name and address of the company's primary banker: BANCO POPULAR

Name of Account Manager: _____
Telephone number: () _____ Facsimile number: () _____

10. Name and address of the Law Firm that represents the company (if applicable): _____

Name of Attorney (if specifically assigned, within the firm): _____
Telephone number: () _____ Facsimile number: () _____

11. Name and address of the company's Accountant (if applicable): _____
Telephone number: () _____ Facsimile number: () _____





12. Provide originals or certified true copies (if originals cannot be provided) of the following corporate documents.

- Certificate(s) of Incorporation / Registration;
- Memorandum and Articles of Incorporation / Association & By Laws;
- Notice of Address or Notice of Change of Address of Registered Office;
- Notice of Directors/Managers or Notice of Change of Directors/Managers;
- Notice of Appointment of Secretary and/or Notice of Change of Secretary;
- Register of Members / Shareholders, including the full name and address of each beneficial owner holding 25% or more of the Company's shares;
- Trade / Business Licenses and Registration documentation;
- Request for Name Search and/or Name Reservation;
- Certificate of Good Standing; or
- Any other documentation requested by the Account Officer.

Note: Wherever documents require renewal, a copy of the "updated" document is to be provided to Scottiabank upon each renewal / re-registration process.

13. If any of the following is itself a corporate entity then the items listed in section 12 are required for each such corporate entity, as well information regarding the following.

- Authorized signatory;
- Directors;
- Beneficial owner holding 25% or more of the Company's shares;
- Any person with principal control over the Company's assets; and
- Any person acting under a power of attorney or any other legal document.

14. Please provide personal information for each officer, director, and shareholder with more than 25% ownership of the company.

Name WALEED HAMED Title GENERAL MANAGER
 Physical Address A C&D ESTATE STON FARM CHRISTIANSTED ST. CROIX 00820
 Mailing Address P.O. BOX 763 CHRISTIANSTED, ST. CROIX USVI 00821-0763
 Date of Birth 01/22/1962
 Country of Citizenship USA Telephone Number (340) 690-9395
 Email address _____ Social Security Number 580-06-4454

Name MUFEEED HAMED Title MANAGER
 Physical Address SAME AS ABOVE
 Mailing Address SAME AS ABOVE
 Date of Birth 10/1/1971
 Country of Citizenship USA Telephone Number (340) 690-0581
 Email address _____ Social Security Number 580-19-5934

Name MAHER YUSUF Title PRESIDENT
 Physical Address #14 ESTATE PLESSEN F' STED ST. CROIX USVI 00841
 Mailing Address P.O. BOX 3649 KINGSHILL, ST. CROIX USVI 00851-3649
 Date of Birth 4/28/1967
 Country of Citizenship USA Telephone Number (340) 690-9396
 Email address _____ Social Security Number 580-17-0046

Name FATHI YUSUF Title TREASURER
 Physical Address #26 A TUTU PARK MALL (ST. THOMAS)
 Mailing Address #26 A TUTU PARK MALL ST. THOMAS USVI 00802
 Date of Birth 4/15/1941
 Country of Citizenship USA Telephone Number (340) 690-9598
 Email address _____ Social Security Number 580-09-1013



12. Provide originals or certified true copies (if originals cannot be provided) of the following corporate documents:

- Certificate(s) of Incorporation / Registration;
- Memorandum and Articles of Incorporation / Association & By Laws;
- Notice of Address or Notice of Change of Address of Registered Office;
- Notice of Directors/Managers or Notice of Change of Directors/Managers;
- Notice of Appointment of Secretary and/or Notice of Change of Secretary;
- Register of Members / Shareholders, including the full name and address of each beneficial owner holding 25% or more of the Company's shares;
- Trade / Business Licenses and Registration documentation;
- Request for Name Search and/or Name Reservation;
- Certificate of Good Standing; or
- Any other documentation requested by the Account Officer.

Note: Wherever documents require renewal, a copy of the "updated" document is to be provided to Scotiabank upon each renewal / re-registration process.

13. If any of the following is itself a corporate entity then the items listed in section 12 are required for each such corporate entity, as well information regarding the following.

- Authorized signatory;
- Directors;
- Beneficial owner holding 25% or more of the Company's shares;
- Any person with principal control over the Company's assets; and
- Any person acting under a power of attorney or any other legal document.

14. Please provide personal information for each officer, director, and shareholder with more than 25% ownership of the company.

Name HISHAM HAMED Title MANAGER
 Physical Address #14 ESTATE PLESENNE STED ST. CROIX USVI 00841
 Mailing Address P.O. BOX 3649 KINGSHILL, ST. CROIX USVI 00851-3649
 Date of Birth 12/19/1975
 Country of Citizenship USA Telephone Number (340)690-3139
 Email address _____ Social Security Number 580-19-5947

Name YUSUF YUSUF Title MANAGER
 Physical Address 4C&D ESTATE SION FARM CHRISTIANSTED ST. CROIX USVI 00820
 Mailing Address P.O. BOX 763, CHRISTIANSTED, ST. CROIX USVI 00821-0763
 Date of Birth 4/24/1977
 Country of Citizenship USA Telephone Number (340)690-8789
 Email address _____ Social Security Number 580-21-9738

Name _____ Title _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____

Name _____ Title _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____



Name _____ Title _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____

15. Are any of the signatories, officers, shareholders with more than 25% ownership, or their immediate family members; a current or former senior official in the executive, legislative, administrative, military or judiciary of a foreign government or a senior officer of a foreign Political Party, or a senior executive of any entity owned by a foreign government or do they maintain a personal or professional relationship with any such official?
 NO YES _____ (If YES, provide further details as directed by the bank officer).

16. Scotiabank's standard operating documents are generally only provided after all of the account-opening requirements have been fully satisfied. To assist in this process, please complete the following questions regarding the authorized signatories and signing instructions.

A. Provide the name and title of each individual who is authorized to sign on the company's account. Authorized signers are required to provide two pieces of ID in original form (or notarized copy only when authorized by a bank employee) - one (1) primary piece being a government-issued photo-ID (e.g., valid passport, drivers license) and one (1) secondary piece (e.g., birth certificate, credit card, social security card, etc):

✓ Name WALEED HAMED Title _____
 Physical Address _____
 Mailing Address SAME AS _____
 Date of Birth _____
 Country of Citizenship ABOVE Telephone Number _____
 Email address _____ Social Security Number _____

✓ Name MUFEED HAMED Title _____
 Physical Address _____
 Mailing Address SAME AS _____
 Date of Birth _____
 Country of Citizenship ABOVE Telephone Number _____
 Email address _____ Social Security Number _____

✓ Name MAHER YUSUF Title _____
 Physical Address _____
 Mailing Address SAME AS _____
 Date of Birth _____
 Country of Citizenship ABOVE Telephone Number _____
 Email address _____ Social Security Number _____

✓ Name FATHI YUSUF Title _____
 Physical Address _____
 Mailing Address SAME AS _____
 Date of Birth _____
 Country of Citizenship ABOVE Telephone Number _____
 Email address _____ Social Security Number _____

✓ Name HISHAM HAMED Title _____
 Physical Address _____
 Mailing Address SAME AS _____
 Date of Birth _____
 Country of Citizenship ABOVE Telephone Number _____
 Email address _____ Social Security Number _____



Name YUSUF YUSUF Title _____
 Physical Address SAME
 Mailing Address AS
 Date of Birth _____ Telephone Number _____
 Country of Citizenship _____ Social Security Number _____
 Email address ABOVE

B. Indicate the signing instructions for the above named individuals who are required to sign on the company's account (e.g., any one to sign; "A" to sign with either of "B" or "C", etc):
TWO SIGNATURES ARE REQUIRED (one Hamed with one Yusuf)

C. Provide names and applicable instructions for persons not authorized to sign on the account, but authorized to obtain the account balance, collect account statements, mail, etc. ID documents are also required as per item # 15:

D. Provide details of any other existing accounts / relationship held with any Scotiabank Group:

E. If so requested, provide a banker's reference on the aforementioned Company, prepared on the applicable Bank's letterhead, and signed by its Manager. If the Company is newly established and does not have an existing banking relationship then the reference is to be provided on the Parent Company / Beneficial Owner(s). The bank reference should comment on the quality of the banking relationship over at least two years, provide full details of the banking arrangements including the date of establishment of the account, type of account, currency of account, present balance, average balance over the previous twelve-month period, credit history, and be specifically addressed to Scotiabank, to provide meaningful support. Facsimile or small references, or references addressed "To Whom It May Concern" are not acceptable.

SECTION 2 - PURPOSE FOR THE ACCOUNT AND ANTICIPATED ACCOUNT ACTIVITY

1. Reason &/or purpose for requiring accounts(s) with Scotiabank, (including referral source if applicable):

2. Detailed overview of the Company's primary business activity (e.g., business / products / services provided and how distributed to clients); type of operations; countries in which/ to which transactions are processed; etc. (attach brochures or articles with pertinent information):
RETAILED SUPERMARKET



3. Financial year end: _____
 Please provide a copy of the Company's latest financial statements or Annual Report. Attached
 If the Company is a subsidiary then provide a copy of the parent company's Annual Report, Attached
 & Corporate Tree detailing ownership particulars (as applicable). In-house financials are to be provided if
 Accountant-prepared statements are not available.

4. Indicate the type of each account required (e.g., Checking Account, Certificate of Deposit, Call Deposit) and
 services required (e.g., wire transfers, letters of credit):

5. Scotiabank is required by law to satisfy itself as to the source of funds for deposits (e.g., from sales, dividends, inter-
 company loans, etc). Also indicate from where, &/or from whom, funds for deposits are received. (Scotiabank
 reserves the right to request additional documentary evidence to support the information provided):

6. Provide details of the anticipated activity in # 7 below. Material change (i.e., in excess of 20%) in the activity
 projected, requires that the company immediately notify the Account Manager / Relationship Officer, and discuss
 with him/her whatever supporting information may be required to support the new statistics:

7. Normal & Expected Activity:

Number of checks expected to be issued in the average month; 1-50 51-100 101-150 151+
 Total \$ value; \$ \$ \$ \$
Major Suppliers / Customers and average payments to them per month:

Largest amount of check (and its beneficiary) issued in the average month;

Large check payments at irregular intervals (e.g., Payment to primary auto parts supplier - ABC Suppliers Ltd -
 \$xxx per quarter; XYZ Corporation - oil & batteries supplier - \$yyy semi-annually, etc);

Anticipated wire payments per month: 1-5 6-9 10-15 15+
 Total \$ value; \$ \$ \$ \$
Major Suppliers / Customers and average payments to them per month:

Number of anticipated deposits in the average month; 1-10 11-20 21-40 41+
 Total \$ value; \$ \$ \$ \$



7. Normal & Expected Activity (cont'd):

<input type="checkbox"/> Composition of the above deposits	Checks	Wires	Cash	Drafts / Money Orders
Total \$ value:	\$	\$	\$	\$

Major Clients and average payments by them per month:

Letters of Credit &/or Collections Payments (i.e. for goods purchased from a Supplier);
Major Clients and anticipated amounts:

8. Will this account be used to conduct business on behalf of someone other than the named account holder (s) (third party)? Yes / No. If "Yes" provide details and supporting documentation for further review/discussion (as advised by the Bank Officer).
(Note for Bank: If the reply is yes, record personal information of the third party and obtain identification and two letters of reference (if the third party is a non-resident).)

9. IMPORTANT INFORMATION ABOUT UNLAWFUL INTERNET GAMBLING

The Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA" or the "Act") and its implementing Regulation GG prohibit any person from knowingly accepting payments in connection with the participation of another person in unlawful Internet gambling.

The Act generally defines "unlawful Internet gambling" as placing, receiving, or otherwise knowingly transmitting a bet or wager (as defined by the Act) by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State Law.

I have hereby certify the above-named business does NOT engage in an Internet gambling business of any kind, either legal or illegal, and will notify Scotiabank if this activity occurs.

10. I/We certify that to the best of our knowledge the information provided herein is accurate. If there are any subsequent changes to any of the information/documentation, we will notify Scotiabank by a signed letter.

I/We authorize the Bank to obtain independent verification from any public &/or internal sources, with respect to this application and in accordance with anti money laundering & anti terrorist financing laws & regulations.

I/We acknowledge that this account will be open for review by Compliance Officers and Auditors and by local government Auditors and Inspectors, subject to appropriate confidential restrictions by the bank.

I/We further confirm that all credits to the account are and will be beneficially owned by the company (or as detailed in item # 8).

Disclosure of information:

While the Bank is committed to protect the privacy and security of the information provided, it may be necessary to disclose information:

- o In response to credit enquiries from qualified legal financial institutions (usually with respect to the customer's application at said financial institution);
- o If the Bank in its discretion reasonably deems such disclosure necessary or desirable in furtherance of the customer's business;
- o Pursuant to legal process or subpoena served on the bank; and
- o If disclosure is reasonably necessary to protect the Bank's interests (the bank will usually notify the customer where permissible under the applicable legal process).



The Customer hereby consents to and authorizes such disclosure, and the Bank shall not become liable by reason of the giving of my such information or of it's being inaccurate or incomplete.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We will ask to see two forms of identification, one of which must have a picture. We may also request other identifying documents.

Signature: [Handwritten Signature]
Director / Authorized Signatory

Signature: [Handwritten Signature]
Director / Authorized Signatory

Date: _____

For Bank Use Only:

Country of Risk _____

SIC Code _____

Assigned Risk Rating (H, M, L): _____

Reviewed by: _____
(Bank Officer)

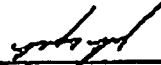
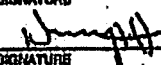
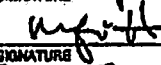



Date: _____

Authorized by: _____
(Bank Officer)

Date: _____

BUSINESS ACCOUNT SIGNATURE CARD

PLESSEN ENTERPRISES INC.		ACCT. NO.	05800045012
NAME OF BUSINESS			
4C&D ESTATE SION FARM		<input type="checkbox"/> CAD	<input checked="" type="checkbox"/> U.S.
ADDRESS			
CHRISTIANSTED ST. CROIX USVI			
CITY/TOWN			
		00820	
PROVINCE		POSTAL CODE	
SIGNING INSTRUCTIONS (Complete only if different than form 10 to sign)			
ANY TWO ** One Hamed and One Yusuf			
			AUTH. INITIAL
1001112 (2001)			

	MAHER YUSUF/PRESIDENT.
SIGNATURE	NAME/TITLE
	WALEED HAMED/GENERAL MANAGER.
SIGNATURE	NAME/TITLE
	MUFEEED HAMED/MANAGER.
SIGNATURE	NAME/TITLE
	FATHI YUSUF/TREASURER
SIGNATURE	NAME/TITLE
	YUSUF YUSUF/MANAGER.
SIGNATURE	NAME/TITLE
	HISHAM HAMED/MANAGER.
SIGNATURE	NAME/TITLE

Account Information
 Transit Number: 30585 Account Number: 45012
 Account Status: Active Start Name: PLESSEN ENTERPRISES, INC.
 Account Type: CHQ ACCT-BUS-AUSI

Document Information
 Document Type: Signature Card Document Date: 01/01/2008

Home Back Next

30585 45012 PLESSEN ENTERPRISES, INC.
 PLESSEN ENTERPRISES 23APR97 AS OF: 17AUG09
 UNITED SHOPPING PLAZA SIGN FARM
 PO BOX 763
 CHRISTIANSTED VI 00821-
 N O O O
 N O O O
 N 007
 2 1 0
 0 0 0 0

H- 66-0452578 B- 3407786240 360 1 29FEB08
 A-000 B-000
 C-000 D-00000 010 VI USD

CREDIT CARD NO.

Signature: *Walter* (witness)
 Signature: *Felix*
 Signature: *Moberg*

SIGNATURE SIGNATURE SIGNATURE

EXHIBIT F

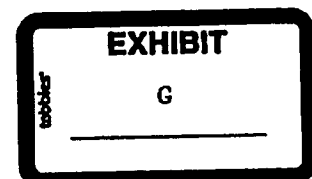
DVD OF THE AUDIO VISUAL
RECORDING OF THE APRIL 30, 2014
MEETING

Charlotte Perrell

From: Joel Holt <holtvi@aol.com>
Sent: Wednesday, April 30, 2014 10:55 AM
To: Gregory H. Hodges; dewoodlaw@gmail.com; Charlotte Perrell; George H.T. Dudley
Cc: carl@carlhartmann.com; kimjapinga@gmail.com
Subject: Plaza
Attachments: 20140430102034.pdf; 20140430105040.pdf

Self explanatory pleadings attached

Joel H. Holt, Esq.
2132 Company Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8709



**PLESSEN ENTERPRISES, INC.
RESOLUTIONS OF THE BOARD OF DIRECTORS**

WHEREAS, Plessen Enterprises, Inc. ("Plessen"), did conduct a special meeting of the Board of Directors on April 30, 2014, at its offices and

WHEREAS, the Board did consider the following five RESOLUTIONS, and

WHEREAS, two Directors did vote for each of the RESOLUTIONS;

NOW, THEREFORE, the undersigned, being the President of the Corporation takes the following action as authorized under the Articles of Incorporation, the By-Laws and the laws of the Virgin Islands,

RESOLVED, that any and all actions of Waleed Hameed to remove and distribute funds in May of 2013 in the amount of \$460,000 as dividends is ratified and approved,

RESOLVED, that the President of the Corporation is hereby authorized to take any and all action necessary, proper or desirable to enter into a lease agreement with KAC357, Inc. for the Premises (the "Lease") of the building and adjoining improvements located at the corporation's property located at L4 Estate Plessen, St. Croix, where the current Plaza Extra Supermarket is located, and pursuant to such provisions as such officer or officers deem in the best interests of the Corporation;

NOTED, that Waleed Hamed, a director in Plessen Enterprises, Inc., has disclosed to the entire Board that he has a financial interest in KAC357, Inc. as a 33.33% shareholder in said company and may act as an officer and/or director in the company in the future;

RESOLVED, that Jeffrey Moorhead, be retained by the President to represent the corporation in the pending litigation filed against Plessen Enterprises, Inc. by (1) United Corporation and Fathi Yusuf, Case No. STX -L2-CV-370, and (2) the lawsuit naming Plessen Enterprises, Inc. as a party defendant in Yusuf Yusuf v. Waleed Hamed et al..


RESOLVED, that the President of the Corporation is hereby authorized to take any and all action necessary, proper or desirable to issue additional dividends up to \$200,000 from the company's bank account to the shareholders.



RESOLVED, That Fathi Yusuf is removed as the Registered Agent of the Corporation, and that the President shall report to the USVI Government that henceforth, Jeffrey Moorhead shall be the Registered Agent.

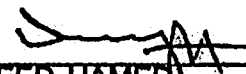
, DATED this 30th day of April, 2014.

DIRECTORS VOTING AGREED:



MOHAMMAD HAMED

Director



WALEED HAMED

Director

FATHI YUSUF _____

Director

Scotiabank

Document Information

Document Type: Cheque Image Date Processed: 04/29/2014

Transit Number: 30585 Cheque Serial Number: 0000386

Account Number: 45012 Amount: (\$20,000.00)

Image: <<< >>> ZoomIn ZoomOut Back Next

Cl
Ac
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Accounting
Accounting

Current Balance:
Balance Forward:
Transaction Amount

Posting Date

- 0429
- 0331
- 0320
- 0312
- 0306
- 0228
- 0221
- 0214
- 0212
- 0206
- 0131
- 0127

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EXHIBIT
H

0386

PLESSEN ENTERPRISES, INC.
P.O. BOX 783
CSTED., Y1 0B21

101-609216

PAY TO THE ORDER OF Jeffrey Monchead \$20,000.00

Twenty Thousand Dollars 20000/100 DOLLARS

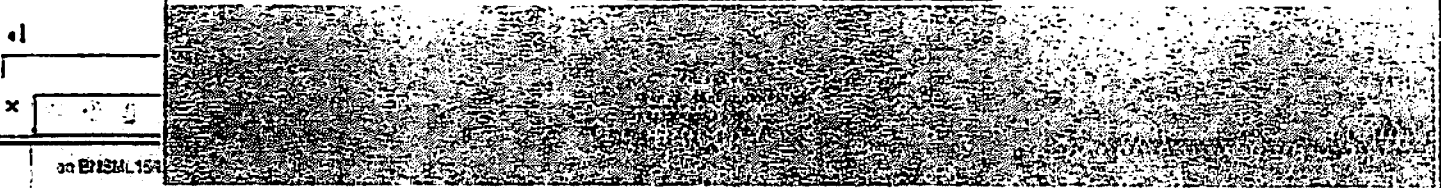
Scotiabank
THE BANK OF NOVA SCOTIA
MEMBER OF THE CIBC GROUP

FOR Returner Fee

Myra Waleed

⑆000386⑆ ⑆021606069⑆ 058⑆00045012⑆

ONLINE



Wednesday, April 30, 2014 11:35:56 AM - Greenshot

FY 004503

COMMERCIAL LEASE AGREEMENT

**Plessen Enterprises, Inc.
(Landlord)**

and

**KAC357, INC.
(Tenant)**



TABLE OF CONTENTS

Section	Title	Page
	Preamble	4
1.0	Premises	4
2.0	Term, Rent, Renewal(s), and Security Deposit	5
2.1	Term	5
2.2	Lease Year	5
2.3	Rent	5
2.3.1	Initial Annual Rent	5
2.3.2	Adjustment of Annual Rent	5
2.3.3	Payment of Adjusted Rent	5
2.3.4	Commencement of Possession and Payment of Rent	5
2.4	Security Deposit	5
2.5	Renewal Option	6
3.0	Use	6
4.0	Assignment, Sublease, Other Transfer of Interest	6
5.0	Utilities	6
6.0	Insolvency of Tenant	6
7.0	Subordination and Estoppel Certificate	6
7.1	Subordination	6
7.2	Estoppel Certificate	7
8.0	Quiet Enjoyment	7
9.0	Improvements	7
9.1	Approvals	7
9.2	Construction or Other Liens	8
9.3	Improvements Landlord's Property	8
9.4	Landlord's Election	8
10.0	Repairs and Maintenance	8
10.1	All Maintenance and Repair Tenant's Responsibility	8
10.2	Landlord Has No Maintenance and Repair Responsibilities	9
10.3	Landlord's Option to Repair	9
11.0	Condemnation	9
12.0	Nuisance and Environmental Compliance	9
12.1	Nuisance	9
12.2	Hazardous Substances	9
12.3	Indemnification	10
13.0	Landlord Not Liable	10
14.0	Obligation to Pay Rent	10
15.0	Indemnification	11
16.0	Insurance	11
16.1	Risks to Be Insured	11
16.1.1	Commercial General Liability Insurance	11
16.1.2	All Risks of Physical Loss Or Damage Insurance	11

Section	Title	Page
16.2	Form of Insurance	11
16.3	Delivery of Policies/Landlord's Right to Purchase Insurance	12
16.4	Mutual Release	13
17.0	Damage to or Destruction of Improvements; Repairs	12
17.1	Notice	12
17.2	Restoration	12
17.3	Application of Insurance Proceeds	13
17.4	Damage Not Caused By Tenant	13
17.5	Damage Caused By Tenant	13
17.6	Landlord's Insurance	14
17.7	Landlord's Option to Restore	14
18.0	Right of Reentry	14
19.0	Abandonment	14
20.0	Landlord's Lien	14
21.0	PERSONAL PROPERTY TO BE REMOVED	14
22.0	Tenant's Holding Over	15
23.0	Default by Tenant	15
23.1	Event of Default	15
23.2	Cure	15
24.0	Landlord's Remedies	16
24.1	Action for Restitution	16
24.2	Termination	16
24.3	Costs and Attorney's Fees	16
25.0	Rights and Remedies	16
26.0	Additional Rent Defined	16
27.0	Notices	16
28.0	Waiver of Condition or Covenant	17
29.0	Covenants Binding	17
30.0	Arbitration	17
31.0	Property Showings	18
32.0	Real Property Taxes	18
33.0	Miscellaneous	18

COMMERCIAL LEASE

This LEASE is made effective April 29, 2014, by and between Plessen Enterprises, Inc., (herein "Landlord") and KAC357, Inc. of (herein "Tenant") (sometimes hereinafter individually referred to as a "Party" or collectively referred to as the "Parties").

WITNESSETH

1.0 **PREMISES.** In consideration of the rents to be paid and the covenants and agreements to be performed by the Parties, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord the following described property:

The portion of Parcel No. 14 Estate Plessen where the existing Plaza Extra West Supermarket is located, including the building, all parking areas, ingress and egress access driveways, sufficient land to maintain the outer portions of the building (25 feet from the sides of the building as noted in the attached drawing) and all loading areas as used for the existing building, as depicted on the plot map and Google Earth map attached as Group Exhibit A. Additionally, all areas used for utility lines of any kind whatsoever to service the existing building shall be included in the lease,

together with all the buildings and improvements thereon (which buildings and improvements and any additions, alterations or improvements thereto after the commencement of the Term are collectively the "Improvements") all of which are collectively sometimes referred to as the "Premises." Tenant acknowledges that Tenant has examined the Premises, and knows the condition thereof, and no representations as to the condition or state of repairs thereof have been made by Landlord or its agents that are not set forth in this Lease. Tenant is leasing the Premises "AS IS", "WHERE IS", WITH ALL FAULTS AND DEFECTS WHETHER LATENT OR APPARENT. Tenant acknowledges and agrees that, except as may be specifically set forth in this Lease, Landlord (and/or any employee or agent of Landlord) has not made and does not make, and Landlord specifically disclaims, any representations, warranties, promises, guarantees, covenants, or agreements of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the Premises. Tenant acknowledges that Tenant is relying solely on Tenant's own inspection, examination, research, tests, investigation and other acts of due diligence concerning the Property and not on any information provided or to be provided by Landlord. Tenant's occupancy of the Premises acknowledges Tenant's acceptance of the Premises in their present condition.

The parties agree to have a surveyor create a new plot map at the Tenant's expense as expeditiously as possible after the commencement of this Lease. If the Government requires additional land to be used to create this plot, the Landlord will agree to increase the size of this plot so long as Tenant pays additional rent to cover the value of the increased size of the Lease Premises, based on the required square footage, to be negotiated by the Parties and be added to the annual base rent. Once this map is completed, the parties will record a new Memorandum of Lease to reflect this new plot.

2.0 **TERM, RENT AND SECURITY DEPOSIT:**

2.1 **Term:** The term of this Lease is 10 years ("Term"). The Term is further subject to the renewal options set forth herein.

2.2 **Lease Year:** The Lease Year is defined as starting on the first day of the first full month after the lease begins.

2.3 **Rent:**

2.3.1 **Initial Annual Rent:** Tenant shall pay Landlord an initial Annual Rent hereunder in the amount of \$660,000 per year, payable in twelve (12) equal monthly installments each in the amount of \$55,000 due on the first (1st) day of each month during the term hereof, without demand, deduction, or offset (the "Monthly Rent"), as well as an additional \$50,000 per annum for use of the sewer servicing the building (payable on June 1st of each Lease Year).

2.3.2 **Adjustment of Annual Rent:** The Annual Rent shall be adjusted at the beginning of each calendar year starting in 2016, commencing on January 1, 2016, by the application of the following CPI Adjustment calculation. The basic index figure for the purposes hereof shall be the Consumer Price Index-U U.S. All Items (1982-1984 = 100) as determined by the U.S. Department of Labor, Bureau of Statistics figure for November 2015. If the corresponding index figure for November, 2015 and for each November during term of this Lease shall exceed the said basic index figure for November 2015, then the minimum annual rental for the lease year commencing January 1, 2016 and similarly for each Lease Year thereafter shall be increased to an amount arrived at by multiplying the Initial Annual Rent by a fraction, of which the numerator shall be the index figure for the month of November preceding such Lease Year, and the denominator shall be the index figure for the month of November 2015.

2.3.3 **Payment of Adjusted Rent:** The Adjusted Annual Rent so obtained shall be payable by Tenant to Landlord in twelve monthly installments as nearly equal as may be, commencing on each annual year after the first Lease Year.

2.3.4 **Commencement of Possession and Payment of Rent:** The Parties recognize that there is currently a partnership between Fathi Yusuf and Mohammad Hamed operating a grocery business in the Demised Premises. The Tenant shall not be granted possession of the Premises so long as this partnership is in possession of the Premises. Likewise, rent shall not be due until the Tenant has possession of the Premises.

2.4. **Security Deposit.** Tenant shall pay to Landlord a security deposit in the amount of \$55,000 (the "Security Deposit") upon receipt of possession of the premises. At the termination of this Lease, for whatever reason, the Security Deposit will be returned to Tenant, less any deductions for unpaid rent, damages to the Premises (ordinary wear and tear excepted) costs and any other expenses incurred by the Tenant that the Landlord is required to pay. The Security Deposit may not be used as last month's rent. Landlord shall have thirty (30) days from the termination of the Lease to assess any damages or other causes for deduction from the Security

Deposit and said deductions shall be made within said thirty (30) days. No interest shall be paid by the Landlord on the Security Deposit and, Landlord is free to co-mingle and otherwise use the Security Deposit during the term of the Lease.

2.5 **Renewal Options:** Provided that the Lessee has not been found by a tribunal or arbitrator (as contemplated in ¶30 of this lease) to be in material default of any of Tenant's obligations hereunder, Lessee may elect to renew this lease for a term of ten (10) years for the first option period and another 10 years thereafter for the second option period. In order to exercise said renewal option, Lessee shall give Lessor written notice of Lessee's intention to renew no later than 3 months prior to the expiration of the current lease period that it has exercised said option. In the event that the renewal option is exercised, Lessee shall pay rental to the Lessor during any option period pursuant to ¶2.0 above and the definition of a 'Lease Year' shall not change. All terms and conditions of this Lease shall remain in full effect during the First Renewal Term.

3.0 **USE:** It is understood and agreed between the Parties that the Premises shall be used and occupied for any commercial purpose, including but not limited to, a supermarket.

4.0 **ASSIGNMENT, SUBLEASE, OTHER TRANSFER OF INTEREST:** The Premises may be sublet, assigned or otherwise transferred. However, no subletting, assigning or other transfer of interest as set forth above shall relieve Tenant of Tenant's obligations hereunder absent the Landlord's written consent, which consent shall not be unreasonably withheld. The term "sublet" shall be deemed to include but not limited to the granting of licenses, concessions and any other rights of occupancy for any portion of the Premises.

5.0 **UTILITIES:** Tenant shall initiate, contract for and obtain in the Tenant's name all utility services required for the Premises, including electricity, water and telephone, exterminating and garbage removal services and Tenant shall pay all charges for these services as such charges become due. Tenant hereby indemnifies Landlord and holds Landlord harmless from any and all claims for the payment for said utilities. Tenant shall pay for all meters and installations necessary.

6.0 **INSOLVENCY OF TENANT:** Tenant agree that if the estate created hereby shall be taken in execution, or by other process of law, or if Tenant shall be declared bankrupt or insolvent, according to law, or any receiver be appointed for the business and property of Tenant, or if any assignment shall be made of Tenant's property for the benefit of creditors, then and in such event this Lease may be canceled at the option of Landlord.

7.0 **SUBORDINATION AND ESTOPPEL CERTIFICATE**

7.1 **Subordination:** This Lease is subject and subordinate to any encumbrance that may now or hereafter encumber the Landlord's interest in the Premises and to all renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination need be required by any mortgagee. In confirmation of such subordination, however, Tenant shall within ten (10) days of Landlord's request, execute, acknowledge and deliver to Landlord any appropriate certificate or instrument

that Landlord may request evidencing such subordination. Tenant hereby constitutes and appoints Landlord as the Tenant's attorney-in-fact to execute any such certificate or instrument for and on behalf of Tenant. In the event of the enforcement by the holder of any such mortgage or encumbrance of the remedies provided for by law or by such mortgage or encumbrance, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such enforcement, automatically become the Tenant of such successor in interest without change in the terms or other provisions of this Lease, provided, however, that such successor in interest shall not be bound by (a) any payment of rent or Additional Rent for more than one (1) month in advance except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease or (b) any amendment or modification of this Lease made at a time that such holder or such successor in interest had an interest in Premises without the written consent of such holder or such successor in interest. Upon request by such successor in interest, Tenant shall execute and deliver an instrument or instruments confirming the attornment herein provided for. Notwithstanding the forgoing, the Tenant's obligation to subordinate the Tenant's interest in the Premises to any mortgage(s) hereafter placed upon Landlord's interest in the Premises is conditioned on such mortgagee(s) executing and delivering a non-disturbance agreement which shall provide that in the event of foreclosure of the mortgage(s), Tenant shall be permitted to remain in occupancy of the Premises subject to the terms of this Lease, as limited hereby, unless or until the Tenant is in default hereunder.

7.2 Estoppel Certificate: At any time during the term of this Lease, Tenant shall, within ten (10) days of the request by Landlord, execute, acknowledge and deliver to Landlord, any mortgagee, prospective mortgagee, or any prospective purchaser of the Premises, an estoppel certificate in recordable form or in such other form as Landlord may from time to time require, evidencing whether (a) this Lease is in full force and effect; (b) this Lease has been amended in any way; (c) Tenant has accepted and is occupying the Premises; (d) there are any existing defaults on the part of Landlord hereunder or any defenses or setoffs against the enforcement of this Lease to the knowledge of Tenant (and specifying the nature of any such defaults, defenses or offsets, if any); (e) the date to which rents and other amounts due hereunder, if any, have been paid; and (f) any other information as may be reasonably requested by Landlord. Each certificate delivered pursuant to this Paragraph may be relied upon by Landlord or any other party to whom the certificate is addressed.

8.0 QUIET ENJOYMENT: Upon payment by Tenant of the rents herein provided, and upon the observance of all of the covenants, terms and conditions on the Tenant's part to be observed and performed, the Tenant shall peaceably and quietly enjoy the Premises for the term hereof without hindrance or interruption by the Landlord or any other person or persons lawfully or equitably claiming by, through or under the Landlord, subject, nevertheless, to the terms of this Lease.

9.0 IMPROVEMENTS.

9.1 Approvals. Any alterations, additions or improvements to the Premises by Tenant shall be done in accordance with all requirements and local regulations. If Landlord's consent is needed for any government approval for any additions or improvements to the Premises, Tenant must present Landlord with all plans and specifications to obtain such approval of Landlord,

which approval shall not be unreasonably withheld. Tenant shall provide Landlord with copies of all such approvals upon request by the Landlord.

9.2 Construction or Other Liens: LANDLORD OR ITS PROPERTY SHALL NOT BE LIABLE FOR CONSTRUCTION LIENS, MATERIALMEN'S LIENS, OR MECHANICS LIENS and the approval of any alterations, additions or improvements shall not be deemed consent the imposition of any such liens. Tenant shall neither cause nor permit any lien to be placed or filed against the Premises. Any mechanics' lien, construction lien or materialmen's lien filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to Tenant, shall be discharged or bonded over by Tenant within ten (10) days thereafter, at Tenant's expense. Tenant shall make no contract or agreement for the construction, alteration, or repairing of any portion of or improvement on the Premises that shall call for the payment of more than One Thousand Dollars (\$1,000.00) for the purchase of material to be used and labor to be performed in and about the construction, alteration, or repair to be made, unless such contract or agreement is in writing, contains an express waiver by such contractor of any and all claims for mechanic's, construction or materialmen's liens against the Premises and a copy of which is delivered to Landlord prior to the commencement of any work thereunder. Nothing herein shall be construed as permitting any mechanic's, construction or materialmen's liens against the Premises stemming from contracts in an amount less than \$1,000.00.

9.3 Improvements Landlord's Property: All alterations, additions and improvements on or in the Premises at the commencement of the term and that may be erected or installed during the term, shall become part of the Premises and the sole property of Landlord, except that all movable trade fixtures installed by Tenant shall be and remain the property of Tenant. Movable trade fixtures shall not include any portion of any building, structure or slab erected or placed on the Premises.

9.4 Landlord's Election: Notwithstanding anything herein to the contrary, at the termination of this Lease, for any reason, Landlord may require the Tenant to remove any or all alterations, installations, additions or improvements made by Tenant upon the Premises and, in such event, Tenant shall remove such selected alterations, installations, additions or improvements and Tenant shall restore the Premises to the original condition, at Tenant's own cost and expense.

10.0 REPAIRS AND MAINTENANCE:

10.1 All Maintenance and Repair Tenant's Responsibility: Tenant shall be responsible for the repair and maintenance of all Improvements during the Term. By way of example and not in limitation, during the Term: Tenant shall maintain the structural, roof and exterior portions of the Improvements in good repair and safe condition; Tenant shall also maintain all interior and exterior mechanical, electrical, plumbing, HVAC and drainage systems in good repair and safe condition; Tenant shall install and maintain suitable and appropriate landscaping on the Premises; Tenant shall keep the Premises well painted; Tenant shall maintain the yard, driveways and parking areas on the Premises in good repair and safe condition which maintenance and repair shall include but not be limited to the removal from the Premises and proper disposal of all papers, debris, filth and refuse, when reasonably necessary; and Tenant shall maintain the

Premises in a clean, neat, sightly and safe condition. Tenant shall fulfill its obligations under this Section 10.1 so that during the Term the Premises are maintained in a condition suitable and appropriate for first class retail stores. Tenant shall comply with all and any duly authorized requirements of government authorities applicable to the Premises.

10.2 Landlord Has No Maintenance and Repair Responsibilities: Pursuant to ¶10.1, the Landlord has delegated to the Tenant and the Tenant as assumed all repair and maintenance obligations concerning the Premises and the Tenant alone is responsible for making sure the Premises conform to all applicable building codes and health, safety and accessibility standards.

10.3 Landlords' Option to Repair: If Tenant fails to maintain the Premises in good repair and safe condition as set forth herein or fails to make necessary repairs within thirty (30) days after receiving notice of such need, same may be made by Landlord at the expense of Tenant and collectible as Additional Rent or otherwise and shall be paid by Tenant to the Landlord within five (5) days after rendition of a bill or statement thereof. There shall be no liability on the part of Landlord by reason of inconvenience, annoyance or injury to business arising from Landlord making any repairs in or to the Premises. Nothing herein shall be construed as requiring the Landlord to any repairs to the Premises.

11.0 CONDEMNATION: If the whole or any part of the Premises shall be acquired or condemned for any public or quasi-public use or purpose then, at the option of Landlord, the term of this Lease shall cease and terminate from the date of title vesting in such proceedings, and Tenant shall have no claim for any portion or part of Landlord's award, provided, however, that Tenant shall have the right to any additional or specific award to which the Tenant might be entitled, providing the same results in no diminution of Landlord's award and shall not be any part thereof.

12.0 NUISANCE AND ENVIRONMENTAL COMPLIANCE:

12.1 Nuisance: Tenant covenants that Tenant shall not perform any acts or carry on any practices that may injure the Premises or the improvements on the Premises, or be a nuisance or menace to Landlord or its business invitees or to any neighboring businesses. Tenant shall, at Tenant's own expense, comply with all laws and all orders, regulations or ordinances of all governmental agencies and authorities affecting the Premises. Tenant shall not block any access to any adjoining Tenant's Premises. Tenant shall not place any merchandise on the sidewalk in front of the Premises, if any.

12.2 Hazardous Substances: Tenant shall not cause nor permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. Tenant may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified herein at ¶3.0. Tenant may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this

Lease, Tenant shall remove all Hazardous Substances from the Premises. The term Environmental Law shall mean any federal, state or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

12.3 **Indemnification:** Tenant agrees to indemnify, defend and hold Landlord and its employees and agents harmless from any and all Claims which arise from Hazardous Substances which are spilled, leaked, disposed of, or otherwise released upon the Premises during the term of this Lease or in violation of ¶12.2 hereof. The indemnity set forth herein shall survive the expiration or early termination of this Lease.

13.0 **LANDLORD NOT LIABLE:** To the fullest extent permitted by law, Tenant agrees that Landlord and Landlord's agents and employees shall not be liable for, and Tenant waives all claims for, damage to person or property and inconvenience, annoyance or injury to business sustained by Tenant or any person claiming through Tenant, regardless of the cause thereof, resulting from any accident or occurrence in or upon the Premises, including but not limited to claims for damage resulting from: (a) any equipment or appurtenances being repaired; (b) injury done or occasioned by wind; (c) any defect in or failure of plumbing or air conditioning equipment, electric wiring or installation thereof; (d) broken glass; (e) the backing up of any sewer pipe or downspout; (f) the bursting, leaking or running of any tank, tub, washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about such Premises; (g) the falling of any fixture, plaster, tile or stucco; (h) any failure of the Landlord to perform any maintenance obligations; (i) the making any repairs, alterations or improvements in or to any portion of the Premises by any person or entity; and/or (j) any act, omission or negligence of co-tenants, licensees or of any other persons or occupants of the Premises or of adjoining or contiguous property. No such damages shall entitle Tenant to a reduction or abatement of rent.

14.0 **OBLIGATION TO PAY RENT:** This Lease and the obligation of Tenant to pay rent hereunder and perform all of the other covenants and agreements hereunder on the part of Tenant to be performed shall in no way be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease or to supply or is delayed in supplying any service expressly or arguably impliedly to be supplied or is unable to make, or is delayed in making repairs, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from so doing by reason of strike or labor troubles or any outside cause whatsoever including, but not limited to, government pre-emption in connection with a National Emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand.

15.0 **INDEMNIFICATION:** To the fullest extent permitted by law, Tenant hereby indemnifies Landlord and holds Landlord harmless of and from all claims: arising from the conduct or management of, or from, any work or thing whatsoever done in or about, the Premises during the term of this Lease; arising during such term from any condition of any street

or area adjoining the Premises; arising from any act or negligence of Tenant or any of its agents, contractors, employees, guests or business invitees; arising from, any act or omission of Landlord or any of its agents, contractors, employees, guests or business invitees (unless solely caused by the negligence or willful misconduct of Landlord or its agents, contractors, employees, guests or business invitees); or arising from any accident, injury or damage whatsoever, however caused, to any person or persons or to the property of any person, persons, business entity, or business entities, occurring during such term on, in, or about the Premises or on or under the streets or areas adjacent thereto. Tenant hereby also indemnifies Landlord against and holds Landlord harmless from all costs, counsel fees, and liabilities incurred in or about any such claim or in or about any action or proceeding brought thereon, and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant shall, on notice from Landlord, resist or defend such action or proceeding by counsel satisfactory to Landlord.

16.0 INSURANCE:

16.1 Risks to Be Insured: Tenant, at Tenants expense, will procure and keep in effect during the Term hereof the following insurance:

16.1.1 Commercial General Liability Insurance ("CGL Insurance") for the benefit of Landlord and Tenant insured, in the sum of at least ONE MILLION DOLLARS (\$1,000,000.00) single combined limits for personal injury and property damage resulting from any one occurrence;

16.1.2 All Risks of Physical Loss or Damage Insurance ("Property Insurance") on the Improvements on the Premises to insure against loss or damage by fire, earthquakes and against other risks now embraced by so called "ALL RISKS" coverage, in amounts sufficient to prevent Landlord or Tenant from becoming a co-insurer of any partial loss under the terms of the applicable policies, but in no event less than \$5,000,000.00. Notwithstanding the forgoing, Tenant shall not be required to maintain coverage for the peril of windstorm.

16.2 Form of Insurance: All insurance provided for in this Lease shall be effected under enforceable policies issued by insurers licensed to do business in the U.S. Virgin Islands and approved by Landlord. Tenant shall inform such person as may be designated by Landlord of all transactions concerning the insurance to be purchased by Tenant pursuant to this Lease. Tenant shall cause the Landlord to be named as an "Additional Insured" on the CGL Insurance policy and will cause the Landlord to be named as a "Loss Payee" on the Property Insurance policy. At the request of Landlord, any insurance policy shall be made payable to the holders of any mortgage to which this Lease is at any time subordinate, as the interest of such holders may appear, pursuant to a standard clause for holders of mortgages. To the extent obtainable, all policies shall contain an agreement by the insurers:

16.2.1 That any loss shall be payable, to Landlord or the holders of any such mortgage, notwithstanding any act or negligence of Tenant that might otherwise result in forfeiture of such insurance;

16.2.2 That such policies shall not be canceled except upon ten (10) days prior written notice to Landlord and to the holders of any mortgage, and

16.2.3 That the coverage afforded thereby shall not be affected by the performance of any work in or about the leased property.

16.3 Delivery of Policies/Landlord's Right to Purchase Insurance: Tenant shall deliver said policies of insurance to Landlord and shall provide Landlord with satisfactory proof of the timely renewal and/or replacement of such policies of insurance; and upon Tenant's failure to do so, Landlord may, at Landlord's option, obtain such insurance, and the cost thereof shall be paid as Additional Rent due and payable upon the next ensuing Rent day.

16.4 Mutual Release: This paragraph shall apply only if Landlord has elected to maintain property insurance on the Premises. The Landlord and the Tenant hereby mutually release each other from liability and waive all rights of recovery against each other for any loss in or about the Premises, from perils insured against under their respective property insurance, if any, including any or all risk endorsements thereof, whether due to negligence or any other cause; provided, however, that this paragraph shall be inapplicable if it would have the effect, but only to the extent it would have the effect, of invalidating any insurance coverage of Landlord or Tenant.

17.0. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS; REPAIRS:

17.1 Notice. In case of any damage to or destruction of any Improvements, the Tenant shall promptly give to the Landlord written notice generally describing the nature and extent of such damage or destruction.

17.2 Restoration. In case of any damage to or destruction of the Improvement or any part thereof, regardless of cause, unless the Tenant and the Landlord otherwise agree in writing, the Tenant, at the Tenant's expense, will promptly commence and complete, subject to delays due to strikes, Acts of God, governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or other causes beyond the control of the Tenant, the restoration, replacement or rebuilding of the Improvements as nearly as possible to the Improvements' value, condition and character immediately prior to such damage or destruction (such restoration, replacement, rebuilding, alternations and additions, together with any temporary repairs and property protection pending completion of the work, being herein referred to as the "Restoration"). If the net insurance proceeds are not sufficient to cover the costs of the Restoration, as determined by the supervising architect or engineer reasonably approved by Landlord and, then the amount of the shortage shall be paid by Tenant to pay the costs of the Restoration prior to any of the net insurance proceeds being used to pay such expenses. Tenant shall provide Landlord with supporting documentation that such amounts have been paid prior to the use of the net insurance proceeds.

17.3 Application of Insurance Proceeds. All insurance proceeds received by the Tenant and/or the Landlord on account of any damage to or destruction of the Improvements or any part thereof (less the cost, fees and expenses incurred by the Tenant and/or Landlord in the

collection thereof, including, without limitation, all adjuster's fees and expenses and attorneys' fees and expenses) together with all funds deposited by the Tenant to cover the costs of Restoration shall be held in escrow by an agreed upon independent attorney, which attorney must be admitted to practice in the U.S. Virgin Islands, and shall be disbursed to the Tenant or as the Tenant may direct, from time to time as Restoration progresses, to pay (or reimburse the Tenant for) the cost of Restoration, upon written request of the Tenant to the Landlord, which request shall be accompanied by (a) a certificate of supervising architect or engineer reasonably approved by the Landlord describing in reasonable detail the work and materials in question and the cost thereof, stating that the same were necessary or appropriate to the Restoration and constitute a completed part thereof, and that no part of the cost thereof has theretofore been reimbursed, and specifying the additional amount, if any, necessary to complete the Restoration; and (b) an opinion of counsel reasonably satisfactory to the Landlord that there exist no construction mechanics' or similar liens for labor or materials supplied except such as are to be discharged by the application of the amount requested; provided, that the balance of such net proceeds so held by the Landlord shall not be reduced below the amount specified in such certificate as necessary to complete the restoration. Upon the foregoing clauses (a) and (b) that Restoration has been completed and the cost thereof paid in full, and that there are no construction, mechanics' or similar liens for labor or materials supplied in connection therewith, any balance of such Restoration funds shall, unless the Tenant is in default hereunder, be paid to the Tenant or as the Tenant may direct.

17.4 Damage Not Caused By Tenant: In the event of damage to the Improvements by fire, windstorm, lightning or earthquake, or other casualty or damage to the Improvement not caused by Tenant its agents, employees, contractors and/or invitees the provisions of this Lease shall remain in full force and effect during Restoration, except that the Rent shall be proportionately reduced from the date of the damage or the date Tenant last is able to occupy the Improvements, whichever occurs later, and while such repairs are being made to the Improvements. The proportionate reduction shall be based upon the extent to which the damage and the making of such repairs to the Improvements shall reasonably interfere with the business carried on by the Tenant in the Improvements. Notwithstanding anything herein to the contrary the rent reduction set forth in this paragraph shall terminate at any time that the Tenant fails to promptly commence and diligently pursue the completion of the Restorations, subject to delays due to strikes, Acts of God, governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or other causes beyond the control of the Tenant, and, in no event shall the rent reduction set forth in this paragraph exceed a period of one year from the date of the damage to the Improvements.

17.5 Damage Caused by Tenant: All damage or injury to the Improvements due to any failure of the Tenant to fulfill the Tenant's maintenance and repair obligations or caused by Tenant its agents, employees, contractors and invitees, or from any other cause of any other kind or nature whatsoever due to carelessness, omission, neglect, improper conduct or other cause of Tenant its agents, employees, contractors and invitees, shall be repaired and restored promptly by Tenant at Tenant's sole cost and expense to the satisfaction of Landlord and the Rent shall not be apportioned or abated on account of said damage or injury.

17.6 **Landlord's Insurance:** Nothing herein shall be construed as requiring the Landlord to purchase property or other insurance for the Premises or for the Improvements.

17.7 **Landlord's Option to Restore:** If Tenant fails to timely commence and complete a Restoration, same may be made by Landlord and the expense thereof shall be deemed Additional Rent.

18.0 **RIGHT OF ENTRY:** Landlord shall have the right to enter upon the Premises at all reasonable hours for the purpose of inspecting same or making repairs deemed essential by Landlord upon 72 hours written notice.

19.0 **ABANDONMENT:** In the event that the Premises shall be left unoccupied and unused for more than sixty (60) days, Tenant shall be deemed for all purposes to have abandoned the Premises and Landlord may take possession of the Premises by force or otherwise and dispossess Tenant, other occupants, and their effects.

20.0 **LANDLORD'S LIEN:** In consideration of the mutual benefits arising under this Lease, Tenant, as debtor, hereby grant to Landlord as secured party, a lien and security interest on all equipment, furniture, furnishings and other tangible personal property of Tenants now or hereafter placed in or upon the Premises (the "Tenant's Personal Property"), and such Tenant's Personal Property shall be and remain subject to such lien and security interest of Landlord for payment of all rent and other sums agreed to be paid by Tenants herein and the performance by Tenant of all Tenant's obligations hereunder. Such Tenant's Personal Property subject to Landlord's lien shall not be removed from the Premises, except in the normal course of business, without the written consent of Landlord. Landlord shall deliver to Tenant, upon Tenant's request, however, a subordination of the aforesaid lien and security interest, in favor of a *bona fide* bank or similar lending institution, which requires a first priority lien upon Tenant's leasehold improvements or as collateral for a loan to be used to finance leasehold improvements to the Premises, or inventory or working capital for the business to be operated at the Premises.

21.0 **PERSONAL PROPERTY TO BE REMOVED:** Upon the termination of this Lease, Tenant shall remove all personal property, goods and movable trade fixtures as instructed by Landlord, and shall deliver the Premises to the Landlord in a clean condition. In the event that Tenant fails to remove the equipment, goods, and trade fixtures as directed by Landlord, Landlord shall be entitled to take title to said equipment, goods and trade fixtures at Landlord's sole option. Landlord may have said equipment, goods and trade fixtures removed at Tenant's cost.

If Tenant vacates or abandons the Premises in violation of this Lease, any property that Tenant leaves on the Premises shall be deemed to have been abandoned and may either be retained by Landlord as the property of Landlord or may be disposed of at public or private sale as Landlord sees fit.

Any property of Tenant sold at public or private sale or retained by Landlord shall, at the value of the proceeds of any such sale, or the then current fair market value of such property as may be retained by Landlord, be applied by Landlord against:

- (a) The expense of Landlord for removal, storage, or sale of the property;
- (b) The arrears of rent or future rent payable under this Lease; and
- (c) Any other damages to which Landlord may be entitled hereunder.

The balance of such amounts, if any, shall be given to Tenant.

22.0 TENANT'S HOLDING OVER: The failure of Tenant to surrender the Premises at the conclusion of the initial term of this Lease or at the termination of any applicable Renewal Option Term and the subsequent holding over by Tenant, with or without the consent of Landlord, shall result in the creation of a tenancy which may be canceled by Landlord on seven (7) days notice. The rental for such holding over period shall be in the amount of the \$ 20,000 *per week*, payable in advance. This provision does not give Tenant any right to hold over at the expiration of the term. All other terms and conditions of this Lease shall remain in full force during any tenancy created pursuant to this paragraph.

23.0 DEFAULT BY TENANT:

23.1 Event of Default: The following shall be deemed an Event of Default by Tenant.

23.1.1 Failure to pay any Rent or Additional Rent due hereunder within thirty (30) days of its due date;

23.1.2 Failure to maintain any insurance required hereunder; or

23.1.3 Failure to cure the non-compliance any of the other conditions or covenants of the Lease for more than thirty (30) days after written notice from Landlord to Tenant such non-compliance.

23.2 Cure: To the extent that a cure period is provided, an Event of Default shall be deemed cured hereunder only upon the occurrence of the following:

23.2.1 Payment of the sum and/or performance of the obligation for which the Notice of Default was given;

23.2.2 Payment of all reasonably costs and attorney's fees incurred by Landlord as a result of the occurrence of the Event of Default; and

23.2.3 Payment of all sums (including late fees and subsequent monthly installments) and/or performance of all obligations that have become due as of the date of cure.

24.0 LANDLORD'S REMEDIES. Upon the occurrence of an Event of Default, Landlord shall have the following remedies:

24.1 **Action For Restitution:** Landlord, in addition to all other rights and remedies it may have, shall have the right to seek restitution of the Premises by virtue of the summary eviction proceedings provided in 28 VIC §781, et seq.

24.2 **Termination:** In addition to all other rights and remedies it may have, should the Landlord re-enter as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may elect at any time to terminate this Lease and Landlord may recover from the Tenant all damages Tenant may incur by reason of Tenant's breach hereof, including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in the Lease for the remainder of the stated term over the then reasonable rental value of the Premises for the remainder of the stated term, all of which amount shall be immediately due and payable from the Tenant to the Landlord. No re-entry or taking possession of the Premises by the Landlord shall be construed as an election by Landlord to terminate this Lease unless a written notice of such intention is given to the Tenant or unless the termination thereof is decreed by a Court of competent jurisdiction.

24.3 **Costs and Attorney's Fees:** Tenant shall pay Landlord for all reasonable costs and attorney's fees incurred by Landlord as a result of the occurrence of an Event of Default.

25.0 **RIGHTS AND REMEDIES:** It is agreed that each and every one of the rights, remedies and benefits provided by this Lease to Landlord shall be cumulative, and shall not be exclusive of any other of said rights, remedies and benefits allowed by law.

26.0 **ADDITIONAL RENT DEFINED:** All costs and expenses that Tenant assumes or agrees to pay pursuant to this Lease shall be deemed Additional Rent and, in the event of non-payment, Landlord shall have all the rights and remedies herein provided for in case of non-payment of rent. If Tenant shall default in making any payment required to be made by Tenant, other than the payment of the Monthly Rent, or shall default in performing any term, covenant, or condition of this Lease on the part of Tenant to be performed which shall involve the expenditure of money by Tenant, Landlord, at Landlord's option may, but shall not be obligated to, make such payment or, on behalf of Tenant, expend such sums as may be necessary to perform and fulfill such term, covenant, or condition, and any and all sums so expended by Landlord, with interest thereon at the rate of four percent (4%) per annum from the day of such expenditure, shall be Additional Rent and shall be repaid by Tenant to Landlord on demand, but no such payment, or expenditure by Landlord shall be deemed a waiver of Tenant's default nor shall it affect any other remedy of Landlord by reason of such default.

27.0 **NOTICES:** Whenever under this Lease a provision is made for notice of any kind, absent written notice to the changing the addresses below, it shall be deemed sufficient service thereof if such notice is in writing and, in the case of the Tenant, delivered to the Premises, or in the case of either Party, addressed to the respective Party to this Lease at the address shown below, by Hand Delivery To:

FOR LANDLORD: Plessen Enterprises: Jointly To Both
Fathi Yusuf
Plot 4-C and 4-D Sion Farm, St. Croix, VI

and

Mohammed Hamed
6-H Estate Carlton,
Frederiksted, St. Croix, VI

FOR TENANT: KAC357, Inc.
c/o Gerry Groner
53 King Street
Christiansted, VI

28.0 WAIVER OF CONDITION OR COVENANT: It is agreed that if during the course of the administration of this Lease, either Landlord or Tenant fails to insist upon strict compliance with each and every condition hereof, such failure shall not be deemed a waiver by Landlord or Tenant with regard to any non-compliance. Regardless of any prior course of conduct, Landlord and Tenant at all times reserve the right to demand strict and timely compliance with all the terms and conditions hereof.

29.0 COVENANTS BINDING: The covenants, conditions and agreements made and entered into by the Parties hereto are declared binding on their respective heirs, successors, representatives and assigns.

30.0 ARBITRATION.

30.1 Except for any claims regarding the validity of this lease, the Parties hereto mutually consent to the resolution by arbitration of all claims or controversies ("Claims" and each, a "Claim") arising out of the Lease terms and obligations set forth herein. As such, the Parties agree that any such Claim will be subject to mandatory, binding arbitration upon the request of either Party.

30.2 Either Party can initiate arbitration hereunder by providing written notice to the other Party setting forth the nature of the Claim in sufficient detail to enable the other Party to understand the issues presented. The arbitration shall take place on St. Croix, U.S. Virgin Islands. Any Claim to be arbitrated pursuant to the terms of this Lease shall be arbitrated by a single arbitrator selected by the Parties. If the Parties cannot agree on a single arbitrator, the arbitrator hereunder shall be David Nichols, Esq. or, in the event that he is unable or unwilling to serve, Hank Smock, Esq. It is the specific goal of the Parties that the arbitration shall be accomplished within ninety (90) days of the request for arbitration and that the arbitration be conducted in an informal manner designed to save costs. The formal rules of evidence shall not apply to the arbitration and no discovery shall be permitted. Notwithstanding the foregoing, no more than fourteen (14) days prior to any arbitration hearing, the Parties shall exchange a list of the witnesses to be called (including a summary of each witnesses' anticipated testimony) and copies of all documents to be presented to the arbitrators. Except for good cause shown, neither Party will be permitted to call a witness not on the exchanged lists or to present any documents not exchanged pursuant hereto. Unless the arbitrator determines that one Party's position with

regard to the issues in arbitration was frivolous or taken solely for delay, each Party shall pay its own costs and attorney's fees relating to the arbitration, each Party shall pay one-half of the arbitrator's fees and costs. If the arbitrator determines that a Party's position with regard to the issues in arbitration is frivolous or taken solely for delay, the arbitrator may allocate the costs of the arbitration, including costs and attorneys' fees as the arbitrator deems appropriate. The decisions of the arbitrator shall be final and binding upon the Parties. Any Party may bring an action in any court of competent jurisdiction to compel arbitration under this Lease and enforce an arbitration award

30.3 The Arbitration provision contained in this ¶30 shall not be interpreted or construed to prevent the Landlord from filing and prosecuting to conclusion a forcible entry and detainer action under Chapter 33, Subchapter II of Title 28 of the Virgin Islands Code and exercising any other rights and remedies available to Landlord thereunder upon the occurrence of an Event of Default by Tenant under this Lease. The Parties expressly agree that the arbitration provisions shall not apply to any dispute or default for which a forcible entry and detainer action under Chapter 33, Subchapter II of Title 28 of the Virgin Islands Code is available. Notwithstanding any provision in this ¶30 to the contrary, the Parties hereto shall have the right to seek temporary restraining orders, preliminary injunctions and similar provisional, equitable relief in a Court of competent jurisdiction in the event of a material breach of the terms of this Lease which the Party seeking such relief has determined in good faith that the exigencies of the breach require such immediate relief.

31.0 **PROPERTY SHOWINGS:** Tenant acknowledges that Property may be sold and that it will be shown to prospective purchasers from time to time. Landlord shall provide Tenant with no less than seventy-two (72) hours advance notice of such showings and Tenant agrees that the Property will be in a neat and orderly condition for showings.

32.0 **REAL PROPERTY TAXES:** Landlord shall pay the real property taxes for the premises. However, Tenant shall reimburse Landlord for the real property taxes attributable to the Premises leased to the Tenant, which shall be paid each year within 30 days of receipt of said amount.

33.0 **MISCELLANEOUS:**

(a) The words "Landlord" and "Tenant" when used herein shall be taken to mean either the singular or the plural and shall refer to male or female, to corporations or partnerships, as the case may be, or as grammatical construction shall require.

(b) The headings of the various articles of this Lease are intended only for convenience and are not intended to limit, define, or construe the scope of any article of this Lease, nor offset the provisions thereof.

(c) The covenant to pay rent whether fixed, earned or additional, is hereby declared to be an independent covenant on the part of Tenant to be kept and performed and no offset thereto shall be permitted or allowed except as specifically stated in this Lease.

(d) In case of an emergency (the existence of which shall be determined solely by Landlord) if Tenant shall not be present to permit entry, Landlord or its representatives may enter the same forcibly without rendering Landlord or its representatives liable therefor or affecting Tenant's obligations under this Lease.

(e) Neither the method of computation of rent nor any other provision of this Lease shall be deemed to create any relationship between the Parties hereto other than that of Landlord and Tenant.

(f) This Lease contains the entire agreement between the Parties hereto, and no agent, representative, salesman, or officer of Landlord has authority to make, or has made, any statement, agreement, or representation, either oral or written, in connection herewith, modifying, adding, or changing the terms and conditions herein set forth. Further, Tenant acknowledges and agrees that neither Landlord nor any agent or representative of Landlord has made, and Tenant has not relied on, any representations or assurances to Tenant's projected or likely sales volume, customer traffic, or profitability. Tenant also acknowledges and agrees that, to the extent any projections, materials, or discussions have related to Tenant's projected or likely sales volume, customer traffic, or profitability, Tenant understands that any and all such projections, materials, and discussions are based solely on Landlord's experiences at other properties or on standardized marketing studies, and that such projections, materials, and discussions shall not be construed as a promise or guarantee that Tenant will realize the same or similar results. No modification of this Lease shall be binding unless such modification shall be in writing and signed by the Parties hereto. Tenant hereby further recognizes and agrees that the submission of this Lease for examination by Tenant does not constitute an offer or an option to Lease the Premises, nor is it intended as a reservation of the Premises for the benefit of Tenant, nor shall this Lease have any force or validity until and unless a copy of it is returned to Tenant duly executed by Landlord.

(g) This Lease shall not be recorded but the Memorandum of Lease signed by Landlord and Tenant upon the execution of this Lease shall be recorded at the Office of the Recorder of Deeds, Christiansted, St. Croix.

(h) The words "term of this Lease" shall mean the initial term of this Lease and any Renewal Option Terms of this Lease.

(i) TIME IS OF THE ESSENCE HEREIN.

WITNESSES

[Signature]
[Signature]

LANDLORD:
PLESSEN ENTERPRISES, INC.

By: [Signature], President

Dated: 4/30/14

CORPORATE
SEAL

WITNESSES:

[Signature]
[Signature]

TENANT:
KAC357, INC.

[Signature], President

Dated: 4/25/14

CORPORATE
SEAL

ACKNOWLEDGMENT

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. CROIX)

ss:

On this 30th day of April, 2014, before me came and personally appeared, Mohammad Hamed, the President of PLESSEN ENTERPRISES, INC. to me known and known to me to be the individual described in and who executed the foregoing instrument, and they acknowledged that they signed the same freely and voluntarily for the purposes therein contained.

[Signature]
Notary Public

NOTARY PUBLIC
JERRI FARRANTE

ACKNOWLEDGMENT Commission Exp: August 26, 2015
NP 078-11

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. CROIX)

ss:

On this 25th day of April, 2014, before me came and personally appeared, Mufeed Hamed, the President of KAC357, INC. to me known and known to me to be the individual

LEASE
Plessen-KAC357, Inc.
Page 21

described in and who executed the foregoing instrument, and they acknowledged that they signed the same freely and voluntarily for the purposes therein contained.


Notary Public

NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: August 26, 2015
NP 078-11

Vicinity Plan
(Not to scale)



- NOTES:
1. Contour elevations and north arrow refer to Page, Chapter 10, 10th Edition.
 2. This property conveyed to US Army Corps of Engineers by Deed No. 22833.
 3. Property is currently zoned R-1.
 4. This plan does not constitute a warranty or representation of any kind, and the Government is not liable for any errors or omissions hereon.

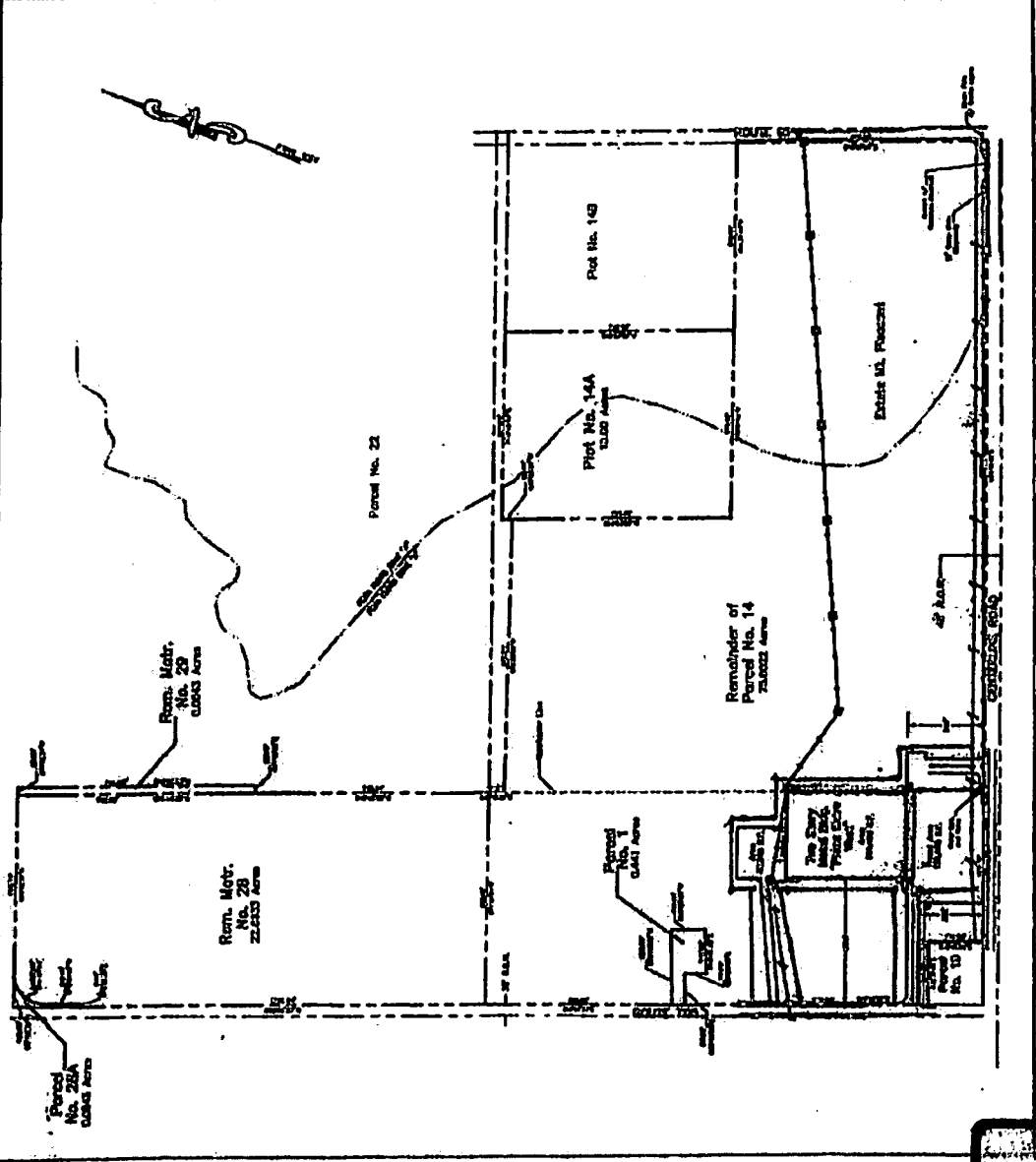
- LEGEND
- PROPERTY LINE
 - PUBLIC PROPERTY LINE
 - SIZE OF PROPERTY
 - ELEVATION MARK
 - ELEVATION LINE
 - CURB FACE
 - SIDEWALK
 - DRIVEWAY
 - DRIVEWAY

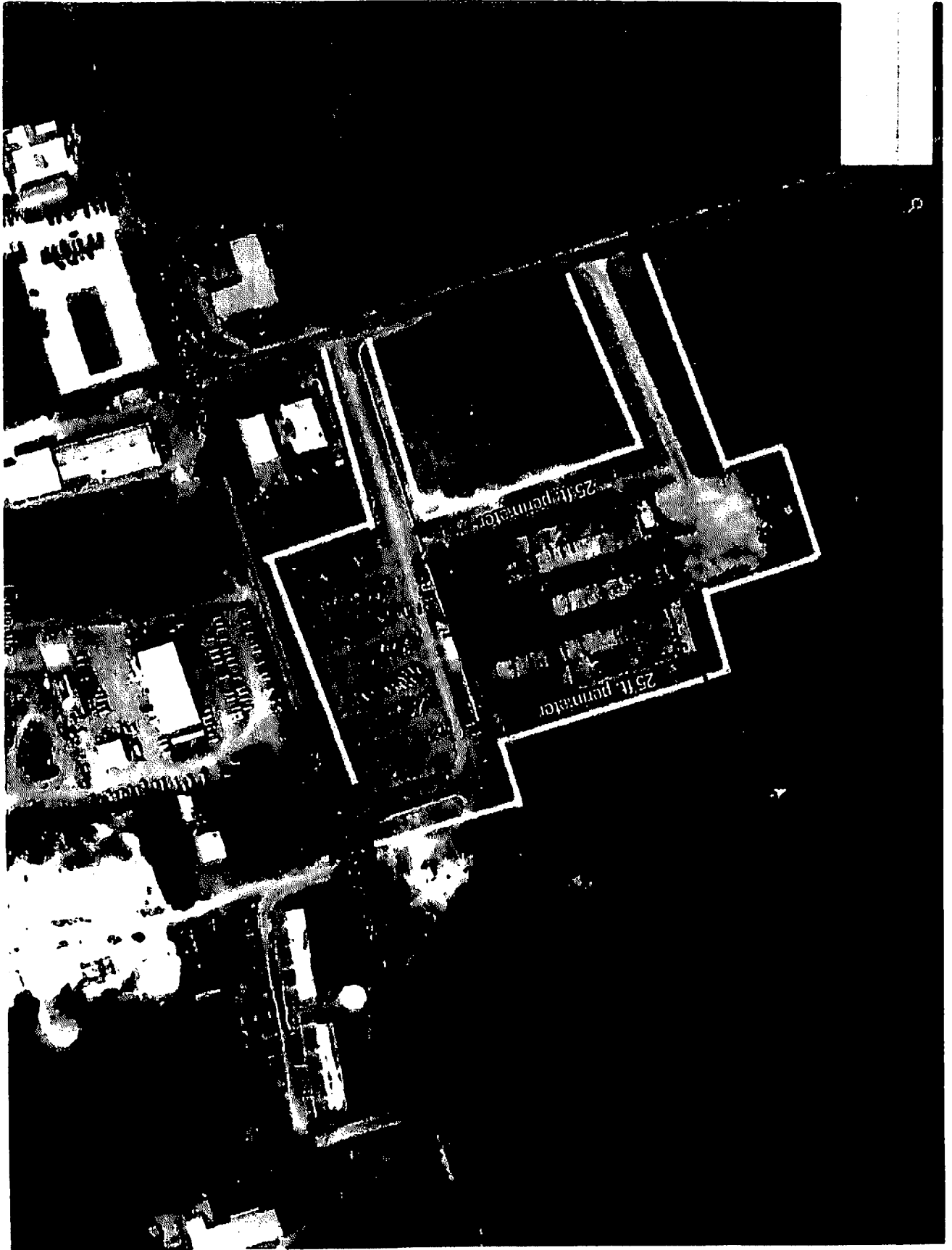


Site Plan for Parcel No. 14

Encls. Present
Private Driveway
St. Chris U.S. Troop Island

FILE NO. 08006





5-3-16
562566-
Ally Holt

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

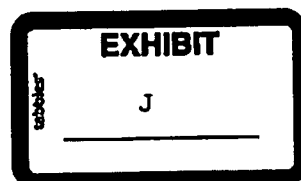
Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com

April 30, 2014

To: Office of the Recorders
Fr: Joel H. Holt
Re: Parcel No 14 Estate Plessen

Please record the attached Memorandum of Commercial Lease against the following property:

Parcel No. 14 Estate Plessen, Prince Quarter, St. Croix, U.S.
Virgin Islands



MEMORANDUM OF COMMERCIAL LEASE

The parties hereto hereby give notice that they have entered into a LEASE effective April 29, 2014, by and between Plessen Enterprises, Inc., (herein "Landlord") and KAC357, Inc. (herein "Tenant") (sometimes hereinafter individually referred to as a "Party" or collectively referred to as the "Parties") and hereby record this Memorandum of Lease to put all third parties on notice to this lease agreement as follows:

1.0 **PREMISES.** In consideration of the rents to be paid and the covenants and agreements to be performed by the Parties, Landlord has leased to Tenant, and Tenant has leased from Landlord the following described property:

The portion of Parcel No. 14 Estate Plessen where the existing Plaza Extra West Supermarket is located, including the building, all parking areas, ingress and egress access driveways, sufficient land to maintain the outer portions of the building (25 feet from the sides of the building as noted in the attached drawing) and all loading areas as used for the existing building, as depicted on the plot map and Google earth map attached as **Group Exhibit A** attached. Additionally, all areas used for utility lines of any kind whatsoever to service the existing building shall be included in the lease,

together with all the buildings and improvements thereon (which buildings and improvements and any additions, alterations or improvements thereto after the commencement of the Term are collectively the "Improvements") all of which are collectively sometimes referred to as the "Premises." Tenant acknowledges that Tenant has examined the Premises, and knows the condition thereof, and no representations as to the condition or state of repairs thereof have been made by Landlord or its agents that are not set forth in this Lease. Tenant is leasing the Premises "AS IS", "WHERE IS", WITH ALL FAULTS AND DEFECTS WHETHER LATENT OR APPARENT. Tenant acknowledges and agrees that, except as may be specifically set forth in this Lease, Landlord (and/or any employee or agent of Landlord) has not made and does not make, and Landlord specifically disclaims, any representations, warranties, promises, guarantees, covenants, or agreements of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the Premises. Tenant acknowledges that Tenant is relying solely on Tenant's own inspection, examination, research, tests, investigation and other acts of due diligence concerning the Property and not on any information provided or to be provided by Landlord. Tenant's occupancy of the Premises acknowledges Tenant's acceptance of the Premises in their present condition.

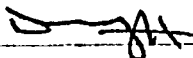
2.0 **TERM**


2.1 . **Term:** The term of this lease is 10 years ("Term"). The Term is further subject to the renewal options set forth herein.

2.2 Renewal Options: Subject to the terms of the lease, Tenant may elect to renew this lease for a term of ten (10) years for the first option period and another 10 years thereafter for the second option period. In order to exercise said renewal option, Lessee shall give Lessor written notice of Lessee's intention to renew no later than 6 months prior to the expiration of the current lease period that it has exercised said option.

3.0 USE: It is understood and agreed between the Parties that the Premises shall be used and occupied for any commercial purpose, including but not limited to, a supermarket.

WITNESSES



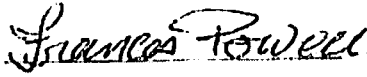


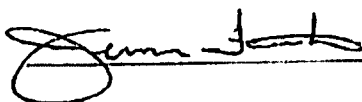
LANDLORD:
PLESSEN ENTERPRISES, INC.


By: Mohammad Hamed, President

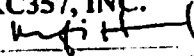
Dated: 4/30/14

WITNESSES:





TENANT:
KAC357, INC.


By: Muheed Hamed, President

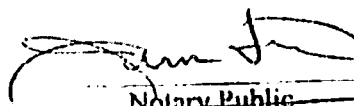
Dated: 4/25/14

ACKNOWLEDGMENT

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. CROIX)

ss:

On this 30th day of April, 2014, before me came and personally appeared, Mohammad Hamed, the President of PLESSEN ENTERPRISES, INC. to me known and known to me to be the individual described in and who executed the foregoing instrument, and they acknowledged that they signed the same freely and voluntarily for the purposes therein contained.



Notary Public
NOTARY PUBLIC
JERRI FARRANTE

2

Commission Exp: August 26, 2015
NP 078-11

Memorandum of Commercial Lease
Plessen Enterprises, Inc. to KAC357, Inc.

Doc# 2014001381

Book: 1368
Pages: 240
Filed & Recorded
04/30/2014 2:12PM
ALTHEA A. PEDRO
RECORDER OF DEEDS
ST CROIX
RECORDING FEE \$ 25.00
PER PAGE FEE \$ 3.00

Althea A. Pedro
Resorder

ACKNOWLEDGMENT

TERRITORY OF THE VIRGIN ISLANDS)
DISTRICT OF ST. CROIX) ss:

On this *25th* day of April, 2014, before me came and personally appeared, Mufeed Hamed, the President of KAC357, INC. to me known and known to me to be the individual described in and who executed the foregoing instrument, and they acknowledged that they signed the same freely and voluntarily for the purposes therein contained.

Jerry Farrante

Notary Public

NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: August 26, 2015
NP 078-11



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and UNITED CORPORATION,

Defendants/Counterclaimants,

vs.

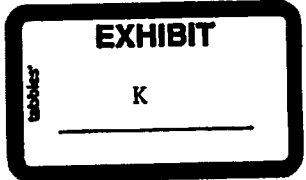
**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES**,

Additional Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED



DECLARATION OF FATHI YUSUF

Fathi Yusuf declares, pursuant to 28 USC §1746 and Super. Ct. R. 18, under the penalties of perjury, that the following is true and correct:

1. I am a shareholder (14%), officer and director of Plessen Enterprises, Inc. ("Plessen"), and along with other members of my family we own 50% of the stock of Plessen.
2. In the Articles of Incorporation of Plessen, I was designated Resident Agent of Plessen. In accordance with ¶ 3.4 of the Bylaws of Plessen, I am also Secretary of Plessen.
3. I am also a shareholder, officer and director of United Corporation ("United").
4. On the basis of my work undertaken on behalf of Plessen and United over many years, I have acquired substantial experience with and knowledge of long-term commercial leases, and the prevailing business terms of such leases. Plessen is presently a lessor on a long-term commercial lease with a Virgin Islands company, Dockside Convenience, LLC ("Dockside"). United is currently a lessee on a long-term commercial lease with Tutu Park Ltd. for the Plaza Extra store in St. Thomas, and is currently a lessor on several long-term commercial

leases at the shopping center in St. Croix known as United Shopping Plaza.

5. Plessen's lease with Dockside is a 30-year lease of Parcel Nos. 6 and 9 Remainder Estate Thomas in St. Thomas (the "Giant Gas Lease"). The leased premises are located at the intersection of Long Bay Rd. and Estate Thomas Rd. in St. Thomas (near Mandela Circle), and have frontage on both of these roads. Dockside operates a gasoline station and a convenience store at the leased premises under the name "Giant Gas."

6. I have studied the lease (the "Hamed Lease") which the Board of Directors of Plessen purported to approve with a newly created lessee company called KAC357, Inc. (the "New Hamed Company") in the Special Meeting held on April 30, 2014. According to a plan filed by Mohammed Hamed on April 30, 2014, the New Hamed Company is owned by Waleed Hamed and his brothers, Waheed and Mufeed.

7. The Hamed Lease on its face is premature for action by the Plessen Board of Directors because it is subject to a contingency that makes the entire proposed Hamed Lease illusory, inasmuch as, among other things, there is no effective date when rent is to be paid. Section 2.3.4 of the Hamed Lease states as follows:

The Parties recognize that there is currently a partnership between Fathi Yusuf and Mohammad Hamed operating a grocery business in the Demised Premises. The Tenant shall not be granted possession of the Premises so long as this partnership is in possession of the Premises. Likewise, rent shall not be due until the Tenant has possession of the Premise.

8. Turning to the business terms of the Hamed Lease, it is clear to me that a number of its terms favor the New Hamed Company at the expense of Plessen, and therefore that the Hamed Lease is not only premature, but is unfair to Plessen, and that it is not in Plessen's best interests to enter the Hamed Lease.

9. One fundamental flaw in the business terms of the Hamed Lease which, by itself, demonstrates that it is not in the interests of Plessen, is the absence of any personal guaranty by the Hameds to back up the obligations to pay rent and otherwise perform under the lease for the first ten-year term and any of the two subsequent 10-year renewals that the New Hamed Company is entitled to, at its sole discretion. The absence of a personal guaranty in a long-term lease is very unusual. I have provided a personal guaranty for United's lease of the Plaza Extra store premises at the Tutu Park mall. In addition, Dockside's principals have provided personal guaranties to back up its 30-year rent obligations in the Giant Gas Lease. The New Hamed Company is a start-up company. Without a personal guaranty by the Hameds, the New Hamed Company would be able to breach its lease and simply walk away from its rent obligations, leaving Plessen with little recourse to recover the rent owed on the balance of the lease term. In addition, the lack of a personal guaranty also renders the lessee's indemnification provision (in section 10.3) worthless.

10. The assignment clause in the Hamed Lease (at section 4) is also unusual and harmful to Plessen's interests. Under that clause, the lease is freely assignable by the New Hamed Company, and Plessen as the Landlord has no right to reject an assignee because it is not sufficiently creditworthy or for any other reason it deems appropriate. The Giant Gas Lease's assignment clause (at section 18) precludes any assignment of the lease by the lessee without the advance written consent of the Lessor, and includes a catalogue of grounds for the Lessor to withhold consent based upon financial resources, creditworthiness, etc.

11. The rent structure in the Hamed Lease is also contrary to the interests of Plessen. The rent in the Hamed Lease does not increase over its term in any pre-set amounts or

percentages, as do United's leases with tenants at the United Shopping Plaza, United's lease with Tutu Park Limited, and Plessen's lease with Dockside. Instead, any rent increases in the Hamed Lease over a possible 30-year rent period are limited only to the Consumer Price Index ("CPI") for future years (under section 2.3.2). There is nothing wrong with using the CPI as a reference point in a lease, but it should not be the exclusive basis for establishment of rent. The rent structure in the Hamed Lease is detrimental to Plessen, because it does not establish known rents upfront, but leaves Plessen exclusively reliant on CPI increases. In contrast to the Hamed Lease, Plessen's lease with Dockside provides for substantial known rent increases over the course of the 30-year lease term (at section 4), some of which are 25% or more, and there is no tie-in to the CPI as the exclusive basis for an increase. United routinely requires a personal guaranty on its leases at the United Shopping Center.

12. The insurance provisions in the Hamed lease also favor the New Hamed Company at Plessen's expense. The Hamed Lease (at section 16.1.2) requires that the lessee obtain hazard insurance for \$5,000,000, which is well below the replacement value of the leased premises. I estimate that the replacement cost for the Plaza Extra - West store to be well in excess of \$5,000,000.

13. In addition, although the Hamed Lease insurance provision (at section 16.1.2) obligates the lessee to procure and keep in effect property insurance to insure against risks embraced by "all risks" coverage, the insurance provision then specifically excludes windstorm (hurricane) coverage from the obligation, fundamentally undermining the entire provision. By contrast, the Giant Gas lease (at section 13) contains no exclusion for hurricane coverage. United's lease with Tutu Park Ltd. likewise obligates United to obtain full property insurance,

including insurance to protect against hurricane damage. The exclusion of windstorm coverage in the Hamed Lease is obviously detrimental to Plessen's interests in preserving and protecting the improvements on the Plaza Extra - West premises from destruction by hurricane.

14. The 30-year potential term of the Hamed Lease, with an initial term of ten years and two additional 10-year option terms, likewise benefits the New Hamed Company at the expense of Plessen. Options to renew are not necessarily in the interests of a lessor, because such options by definition give complete discretion to the lessee to either extend or not extend the lease term. This is particularly the case where, as here, there is no provision requiring renegotiation of the financial terms of the lease as part of the exercise of the option to renew. It is preferable from a lessor's perspective to leave the possibility of renewing a ten-year term subject to mutual agreement of the parties at the end of the ten-year term. If a lessee asks for an option to renew a ten-year term during lease negotiations, then my position on behalf of Plessen would be to either seek to negotiate a longer term, or, if that is not possible, simply agree to an initial lease term with no option(s) to renew. The Giant Gas Lease, in contrast to the Hamed Lease, includes a full 30-year lease term, and not a 10-year term with two options to renew.

15. Until the Special Meeting of the Board of Directors of Plessen was held on April 30, 2014, there had been no meeting of the directors or shareholders of Plessen since its formation in 1988. Under the Bylaws of Plessen, however, if there is to be such a meeting, it is my responsibility as Secretary to give notices of any such meeting. Since the Secretary was bypassed before, during and after the April 30, 2014 meeting, this is another irregularity in the conduct of the meeting.

16. Another irregularity that occurred at the April 30, 2014 special meeting of the Plessen Board of Directors is that there was a purported change in Plessen's Resident Agent, with Attorney Jeffrey Moorhead replacing me, despite not having followed the appropriate procedure.

17. Another agenda item purported to retain Attorney Moorhead as counsel for Plessen. I do not know Attorney Moorhead and he has not communicated with me regarding his purported retention by Plessen. I know nothing about his qualifications to represent Plessen, and there was no discussion of any kind at the special meeting regarding his qualifications and the need to retain him. Neither I nor any of my sons was given any input into the retention of Attorney Moorhead. In light of the circumstances of his retention, and his failure to communicate with me before or after his purported retention, I seriously doubt that he would consider the Yusuf interests during any representation of Plessen and be evenhanded in his representation. Instead, my belief is that, if permitted to represent Plessen, he will consider only the Hamed interests, and work against the Yusuf interests, in that representation.

Dated: May 19, 2014


Fathi Yusuf

14 MAY 20 A4:12

507 8908 3774
MAY 20 1974
ST. LOUIS, MO

PLESSEN ENTERPRISES, INC.

P.O. BOX 763
C-STEED, VI 00821

0388

101-600/219

PAY TO THE ORDER OF

Fathi Yusuf \$ 100,000.00

5/12 2014

Scottiabank
THE BANK OF NOVA SCOTIA
REGISTERED ST. CROIX US71

FOR DISCERNED DISTRIBUTION

#000388# 1:0216060691: 058#00045012#

Smith Kpf H

EXHIBIT

L

tabbles

SUPERIOR COURT
HIT V. B. B. B. B. B.
ST. CHARLES, MO.

14 MAY 20 A4:12

0387

101-909/216

PLESSEN ENTERPRISES, INC.
P.O. BOX 763
CSTED., VI 00821

PAY
TO THE
ORDER OF

5/12 ^{rt} 20/12

Mohammad Hamed \$ 100,000.00

One Hundred Thousand Dollars and 00/100 DOLLARS

Scotiabank
THE BANK OF NOVA SCOTIA
500 WATER STREET ST. CROIX USVI

[Signature]

FOR Dividend Distribution

#000387# :021606069: 058#00015012#

14 MAY 20 A 4:12

14 MAY 20 A 4:12