

**TOWN OF CONCORD  
SELECT BOARD MEETING  
September 12, 2022 | 6:30 PM  
TOWN HOUSE  
22 MONUMENT SQUARE**

**SECOND FLOOR MEETING ROOM AND VIA ZOOM**

<https://us02web.zoom.us/j/88281921261?pwd=QUU4b09vandezMzNOa211UTZkcm5zdz09>

Meeting ID: 882 8192 1261

Passcode: 227319

*Revised September 8, 2022*

**AGENDA**

#	Time*	Agenda Item
1.	6:30pm	Call to Order
2.		Consent Agenda <ul style="list-style-type: none"> <li>• Town Accountant Warrant: September 1, 2022</li> <li>• One Day Special Liquor License Applications:               <ul style="list-style-type: none"> <li>○ Leanne Shapiro Govaert DBA as Party Accommodator, 55 Cambridge Turnpike (Concord Museum), on September 17, 2022, from 2PM to 11PM, all alcoholic beverages</li> <li>○ Sheryl Christensen, 11 Wheeler Road (Verrill Farm), on October 8, 2022, from 11AM to 2PM, Wine and Malt Beverages Only</li> <li>○ Jennifer Verrill/Culinary Guild New England, 11 Wheeler Road (Verrill Farm), on September 21, 2022, from 5pm to 8:30PM, Wine and Malt Beverages Only</li> <li>○ Jennifer Verrill, 11 Wheeler Road (Verrill Farm), on September 14, 2022, from 6pm to 8:00pm, Wine and Malt Beverages Only</li> <li>○ The Umbrella Arts Center, 40 Stow Street, on October 14, 2022, from 6:30pm to 10pm, Wine and Malt Beverages Only</li> <li>○ The Umbrella Arts Center, 40 Stow Street, on September 18, 2022, from 6:30pm to 9pm, Wine and Malt Beverages Only</li> </ul> </li> <li>• Proclamations: Concord-Carlisle Community Chest Month – October 2022</li> <li>• Letter to MA Fish and Wildlife re not stocking White Pond</li> </ul>
3.		Town Manager's Report
4.		Chair's Report
5.	6:45pm	Public Hearing (continued from August 29, 2022): Application for Transfer of Liquor License, Pledge of Inventory, and Pledge of License from Dinos GMAA, LLS DBA Dino's Kouzina & Pizzeria located at 1135 Main Street to RK Earth Corp DBA Dino's Kouzina Corp.
6.	7:00pm	West Concord Tavern, LLC Common Victualler's License Application
7.	7:10pm	Continued Discussion of Middle School Building Project
8.	7:30pm	2229 Main Street Update
9.	7:55pm	Department Update: Fire Department
10.	8:40pm	Committee Nominations: Eve Isenberg, 833 Old Road to 9 Acre Corner, to the Community Preservation Committee; Carlene Hempel, 50 Highland Street, as Town representative to the River Stewardship Council

11.		Committee Appointments: Robert Andrews, of 32 Staffordshire Lane, to the Commission on Disability for a term to expire April 30, 2025;
12.	8:45pm	Select Board Liaison Reports
13.	9:00pm	Correspondence
14.	9:05pm	Public Comment
15.	9:15pm	Adjourn

*\*Times are approximate and subject to change*

<b>Current Board and Committee Vacancies</b>
Board of Health
Comprehensive Sustainability and Energy Committee
Concord 2025 Executive Committee
Concord Housing Development Corporation (CHDC)
Concord Local Cultural Council
Conservation Restriction Stewardship Committee
Council on Aging
Cultural Council
Economic Vitality Committee
Historic Districts Commission
Library Board
Natural Resources Commission
PEG Access Advisory Committee
Personnel Board
Planning Board
Public Ceremonies and Celebrations Committee
Transportation Advisory Committee
Trustees of Donations
West Concord Advisory Committee
West Concord Junction Cultural District
White Pond Advisory Committee (WPAC)
Zoning Board of Appeals

COMMONWEALTH OF MASSACHUSETTS  
TOWN OF CONCORD  
SELECT BOARD

**PROCLAMATION**

**CONCORD-CARLISLE COMMUNITY CHEST MONTH  
OCTOBER 2022**

**WHEREAS** For 75 years the Concord-Carlisle Community Chest has been providing support for local community human service organizations and programs; and

**WHEREAS** Recipient organizations funded by the Concord-Carlisle Community Chest serve the needs of our neighbors from our youngest to our oldest; and

**WHEREAS** The Concord-Carlisle Community Chest supports nonprofit organizations that address critical needs in our community in the areas of food insecurity, mental health, domestic violence, elder support, affordable housing, education, legal aid, physical disabilities, childcare & family services; and

**WHEREAS** The Concord-Carlisle Community Chest, carefully evaluates each funding request for operating expenses and innovative projects to ensure that donations are spent efficiently and effectively; and

**WHEREAS** The Concord-Carlisle Community Chest assists recipient organizations and the Town at large to respond to emergency needs identified by human service professionals and concerned citizens; and

**WHEREAS** The Concord-Carlisle Community Chest depends upon the generous contributions by thousands of individual and business supporters; and

**WHEREAS** The Concord-Carlisle Community Chest's Annual Fund begins October 1, 2022

NOW THEREFORE, We, the Select Board of the Town of Concord, Massachusetts, in celebration of the 75<sup>th</sup> anniversary of the Concord-Carlisle Community Chest, do hereby proclaim the month of October 2022 as **CONCORD-CARLISLE COMMUNITY CHEST MONTH** in the Town of Concord to recognize the vital role the Community Chest plays in the life of our town since its founding in 1947 and to wish the Community Chest success in their Annual Fund.

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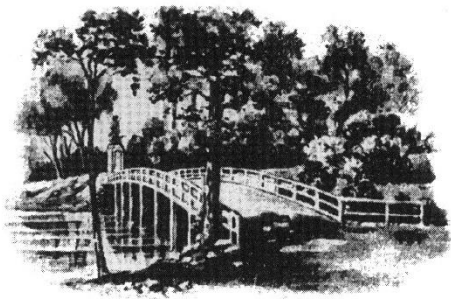
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**CONCORD SELECT BOARD**



OLD NORTH BRIDGE

## TOWN OF CONCORD

TOWN HOUSE - P.O. BOX 535  
CONCORD, MASSACHUSETTS 01742

September 8, 2022

VIA EMAIL: [TODD.RICHARDS@MASS.GOV](mailto:TODD.RICHARDS@MASS.GOV)

Mr. Todd Richards, Assistant Director of Fisheries  
Massachusetts Division of Fisheries and Wildlife  
Fisheries – Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA 01581

*RE: White Pond Concord MA Trout Stocking Fall 2022 Request*

Dear Mr. Richards,

We are following up on letters previously sent to MA Fish and Game requesting that White Pond not be stocked with Rainbow Trout. Spring 2022 stocking did not include Rainbow Trout with apparent beneficial results for the pond. We request that Fall 2022 and Spring 2023 stocking also omit Rainbow Trout.

We have been monitoring White Pond water quality and algal blooms all summer. The blooms were significantly reduced this year from Summer 2021. Our analysis shows an increase in zooplankton, which impede the growth of harmful cyanobacteria. Rainbow Trout are known to feed on zooplankton, and monitoring in prior years showed very low numbers of zooplankton present in the pond.

We request that Fish and Game continue to omit Rainbow Trout stocking in White Pond while we continue to study and improve the pond's water quality.

We would appreciate a response from your office regarding this request.

Sincerely,

Matthew Johnson, Chair  
Concord Select Board

CC: Patricia Huckery, Northeast District Supervisor  
Jonathan Regosin, Deputy Director

## **BACKGROUND/PREVIOUS LETTERS SENT TO FISH & GAME**

We are following up on a letter sent by Senator Mike Barrett in December 2021. The Select Board members were in transition during the time your original response to the town was sent on October 7, 2020. We would like to again request that the Rainbow Trout not be stocked in White Pond this coming March/April 2022 based on the information below.

As you may know, White Pond was closed most of summer 2021 due to severe cyanobacteria blooms. We have been conducting literature searches that support ways to reduce the algal blooms. Cited below are two publications that are pertinent to the subject of trout stocking at White Pond.

The first article (Herrera Environmental 2021) was published after your response to the town. This study examined the effect of Rainbow Trout stocking on lakes in the state. Key findings of this study include:

- Liberty Lake exhibits standard trophic interactions with increased trout stocking decreasing zooplankton abundance and increasing phytoplankton biovolume.
- Stocking of legal-sized trout reduce zooplankton more than stocking of trout fry.
- Total phosphorus increases with trout stocking, possibly due to phosphorus in trout excretion or in increased phytoplankton biovolume.

They conclude that "...the analysis results indicate that algae blooms or cyanotoxin production may be significantly affected by trout stocking in some lakes."

The second publication by Buddy et al. (2005) shows that larger trout are zooplanktivores. In your October 7, 2020 response to Michael Lawson (see attached), you state that the stocked trout are "...12-14" and sometimes larger" and "...are not planktivores." Buddy et al. (2005) show that trout in their study within this size range are in fact zooplanktivores. Herrera Environmental (2021) also state that "legal-sized trout" reduce zooplankton.

While we could not find any literature showing regional studies in Massachusetts of trout diet or potential for a trophic cascade effect, these studies above suggest a concern for continued release of Rainbow Trout into White Pond. If you know of studies that indicate differently, we would welcome this information as we try to understand ways to improve the health of the pond. What is clear is that research into this topic needs to be conducted at White Pond to better understand the relationship between Rainbow Trout stocking and cyanobacteria levels.

We had a successful pilot test of a remediation method to remove the harmful algal blooms in August 2021. We plan on utilizing this device in summer 2022 in tandem with comprehensive water testing. We will learn more about the inputs to the cyanobacteria problems and will be able to document this in more detail in summer 2022.

What we do know is that heavy planktivory is occurring in White Pond as evidenced by the lack of zooplankton community from our weekly water sampling surveys. Numbers of zooplankton have been significantly reduced. These zooplankton help keep the harmful bacteria in check.

In summary, while we conduct our testing and studies, we are asking the Department of Fish & Game to cease Rainbow Trout stocking this spring until we can gather data and better understand the nature of the algal blooms.

Sincerely,

October 7, 2020

Michael Lawson, Chair, Concord Select Board  
Town House, Box 535  
Concord, MA, 01732

Re: Fall Trout Stocking in White Pond

Dear Mr. Lawson,

This letter is in response to your correspondence of August 21, 2020 regarding the stocking of trout in White Pond in Concord. We at MassWildlife recognize the difficulty in managing such fantastic resources and applaud your efforts to examine potential sources of nutrient loading to White Pond.

I would like to address two specific concerns that you have about fall trout stocking at the pond. First, you are concerned about the estimated 2% contribution of Rainbow Trout to the phosphorus loading and second you are concerned that Rainbow trout are eating zooplankton. In your letter you mention that both factors contribute to the potential for harmful algal blooms (HAB's).

First, the assumption that 2% of the phosphorus, based on a placeholder of 10kg of trout left uncaught by anglers, is not intended in the watershed management plan to be anything other than a placeholder. White Pond, as I assume you are aware, is an excellent fishery (for more than just trout) and the recreational value of the lake is very high. While it is possible that some trout remain from year to year and contribute phosphorus, they are still less of an issue, according to the watershed assessment, than horses, dogs, swimmers, and all other sources of phosphorus to this Great Pond and highly regarded Commonwealth resource.

Second, you are concerned that Rainbow Trout are resulting in cascading trophic interactions that could, in turn, result in increases in HAB's. In fact, we stock large Rainbow Trout (12-14" and sometimes larger) which are not planktivores, but rather insectivores or piscivores. Because of their trophic status, they are removing planktivores, not zooplankton. The presence of Rainbow Trout, if anything, reduces the likelihood of HAB's, but since their density is rather low, the benefit is probably minimal.

Again, while we strongly support the efforts of municipalities to control sources of nutrients to lakes and ponds in Massachusetts, we note that the Town's watershed assessment indicates that the trout stocked in White Pond do not contribute significantly to phosphorus loading.

Sincerely,



**Todd Richards**

Assistant Director of Fisheries

Massachusetts Division of Fisheries & Wildlife

email: [Todd.Richards@mass.gov](mailto:Todd.Richards@mass.gov)

[mass.gov/masswildlife](http://mass.gov/masswildlife) | [facebook.com/masswildlife](https://facebook.com/masswildlife)

cc. Patricia Huckery, Northeast District Supervisor

Jonathan Regosin, Deputy Director

## **Bibliography**

Herrera Environmental Consultants, Inc., (2021). Trophic Cascade Effects on Algae Blooms in Washington State. Liberty Lake Sewer and Water District, Liberty Lake, WA.

Buddy, P., Haddix, T., Schneidervin, R., (2005). Zooplankton Size Selection Relative to Gill Raker Spacing in Rainbow Trout. [Transactions of the American Fisheries Society](#) 134(5):1228-1235

**CONCORD POLICE DEPARTMENT**

**MEMORANDUM**

**TO:** Select Board

**FROM:** Joseph F. O'Connor, Chief of Police 

**DATE:** September 8, 2022

**SUBJECT:** *LICENSE TRANSFER-DINO'S GMMA, LLS d/b/a DINO'S KOUZINA & PIZZERIA TO RK EARTH CORPORATION, d/b/a DINO'S KOUZINA & PIZZERIA*

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Select Board:

This memo is in response to your request as the Town of Concord's Alcohol Licensing Board for a review of the application for the "Wine and Malt" License transfer from Dino's GMMA, LLS d/b/a Dino's Kouzina & Pizzeria to RK Earth Corporation, d/b/a Dino's Kouzina & Pizzeria.

This matter was assigned to Detective Keith Harrington, the Department's Licensing Officer, to investigate the transfer, the suitability of the proposed **Manager of Record Rafael Klipp Borges** and **Alternate Manager of Record Lecilia Borges De Souza**.

I have reviewed Detective Harrington's report, which includes matters that have been previously brought to the Board's attention.

Based on the results of the investigation and the Board's previous decisions involving the applicant, there are no disqualifiers. Please feel free to contact me if you need any further information.

cc: Kerry A. Lafleur, Town Manager  
Keith Harrington, Detective  
Christopher Carmody, Administrative Projects Manager



**Concord Police Department**  
219 Walden Street P.O. Box 519  
Concord, Massachusetts 01742  
Tel: 978-318-3400 Fax: 978-369-8420  
Joseph F. O'Connor, Chief of Police



## Department Memorandum

To: Chief Joseph F. O'Connor  
From: Detective Keith Harrington  
Date: September 7, 2022  
Subject: License Transfer – Dino's GMAA, LLS, d/b/a Dino's Kouzina & Pizzeria to RK Earth Corp.,  
d/b/a Dino's Kouzina & Pizzeria  
cc: Captain Thomas Mulcahy, Lieutenant Brian Goldman

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Sir:

The following memo is in reference to the application for a transfer of the Wine & Malt Beverage License from Dino's GMAA, LLS, d/b/a Dino's Kouzina & Pizzeria to RK Earth Corporation. RK Earth Corporation, d/b/a Dino's Kouzina & Pizzeria, has provided the Town of Concord with all of the necessary paperwork for the application process, specifically the CORI forms for the Manager and Alternate Manager of Record.

A check of Mr. Rafael Klipp Borges's CORI, who is the Proposed Manager of Record, shows no criminal activity.

A check of Ms. Ms. Lecilia Borges De Souza, who is the proposed Alternate Manager of Record, shows no criminal activity.

A check of the corporate officers for RK Earth Corporation, Rafael Klipp Borges, and Lecilia Borges De Souza, shows there is no criminal activity in Massachusetts and out of state as well.

There are multiple in-house entries for Mr. Klipp Borges. In 2017, Mr. Klipp Borges was involved in an incident (Concord Police Incident Report #17-22941-OF) which result in a filed violation notice for Improper Management, and violation of Section 2 of the Town of Concord's Alcohol Rules and Regulations, . *Section 2-Supervision Presence- "No manager, employee, owner board member or club member shall consume alcoholic beverages in or upon the Licensed Premises before the opening hour of after the closing hour stated on the license"*.

*Section 5-Duty to File Report- "in all instances where the police are called to the Licensed Premises regardless of the extent, severity or nature of any incident involving **in or upon** the Licensed premise, the Manager of Record or Alternate Manager of Record must submit to the Selectmen within twenty-four (24) hours of such occurrence, a complete and accurate written report of the incident.*

On 1/9/2020, Mr. Klipp Borges was involved in an incident (Concord Police Incident Report # 20-826-OF), in which there was a violation of section 6 of the Town of Concord's Alcohol Rules and Regulations, specifically :

Sec. 6 Violations; *Violations may include, but not be limited to sale or delivery to and underage person, sale to or delivery to an intoxicated person, sales or serving before or after hours stated on the*

*License, use of narcotics on the Licensed premises, gaming/gambling, and failure to meet any of the terms of the regulations of the Selectmen.*

The result was due to Mr. Klipp Borges selling alcohol after being advised by Christopher Carmody that his license to sell was expired due to lack of paperwork.

Ms. Borges De Souza is identified in the above stated incident and acknowledged that she was selling alcohol at the restaurant.

Rafael Klipp Borges and Lecilia Borges De Souza have provided the Town of Concord with all of the requisite financial paperwork necessary for the application process. All of the financials appear to be in good standing.

A check of the Massachusetts Secretary of State Corporations Division shows that RK Earth Corporation, d/b/a Dino's Kouzina & Pizzeria is a domestic corporation filed in January of 2022 and is in "good standing."

Based on the information provided by RK Earth Corporation, there are no disqualifiers that would prevent this application from moving forward.

Respectfully submitted,

*Keith Harrington* 

Detective Keith Harrington  
Licensing Officer  
Concord Police Department

THIS APPLICATION HAS BEEN UPDATED SINCE ITS ORIGINAL PRESENTATION TO THE CONCORD SELECT BOARD ON AUGUST 29, 2022.

### **TRANSFER OF LICENSE**

To apply for a transfer of alcoholic beverages retail license, you will need the following:

- **\$200 Fee** paid online through our online payment link: [ABCC PAYMENT WEBSITE](#)
- **Monetary Transmittal Form**
- **DOR Certificate of Good Standing** This must be obtained by the seller, not the buyer.
- **DUA Certificate of Compliance** This must be obtained by the seller, not the buyer.
- **Transfer Application**
- **Manager Application**
- **Vote of the Entity**
- **Business Structure Documents**
  - If Sole Proprietor, **Business Certificate**
  - If partnership, **Partnership Agreement**
  - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth
- **CORI Authorization Form** Complete one for each individual with financial or beneficial interest in the entity that is applying AND one for the proposed manager of record. *This form must be notarized with a stamp or raised seal.*
- **Purchase and Sales Agreement**
- **Proof of Citizenship** for the proposed Manager of Record.
- **Supporting Financial Records** for all financing and or loans, including pledge documents, if applicable.
- **Legal Right to Occupy**, a lease or deed.
- **Floor Plan**
- **Advertisement**
- **Additional information, if necessary, utilizing the formats provided and or any affidavits.**
- **Management Agreement**, if applicable, requires the following :
  - Management Agreement Application
  - Management Agreement
  - Vote of the Entity
  - CORI Forms for all listed in Section 13 and attachments

*Please Note: You may be requested to submit additional supporting documentation if necessary.*

## Payment Confirmation

### YOUR PAYMENT HAS PROCESSED AND THIS IS YOUR RECEIPT

Your account has been billed for the following transaction. You will receive a receipt via email and via text message.



**Transaction Processed Successfully.**

**INVOICE #: 65ffdcde-dcee-4ea6-b461-fe474ee540e0**

Description	Applicant, License or Registration Number	Amount
FILING FEES-RETAIL	RK EARTH CORP ' DBA DINO'S KOUZINA & PIZZERIA	\$200.00
		<b>\$200.00</b>

**Total Convenience Fee: \$0.35**

**Date Paid: 1/8/2022 4:41:41 PM EDT**

**Total Amount Paid: \$200.35**

#### Payment On Behalf Of

**License Number or Business Name:**  
RK EARTH CORP ' DBA DINO'S KOUZINA &  
PIZZERIA

**Fee Type:**  
FILING FEES-RETAIL

#### Billing Information

**First Name:**  
RAFAEL

**Last Name:**  
KLIPP BORGES

**Address:**  
206 FITCHBURG TPKE

**City:**  
CONCORD

**State:**  
MA

**Zip Code:**  
01742

**Email Address:**  
rafklipp@hotmail.com



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Charles D. Baker  
GOVERNOR

Karyn E. Polito  
LT. GOVERNOR



401085440

Rosalin Acosta  
SECRETARY

Connie C. Carter  
DIRECTOR

DINO'S GMMA, LLC  
1135 Main St  
Concord, MA 01742-3021

EAN: 22081878  
August 10, 2022

Certificate Id:61601

The Department of Unemployment Assistance certifies that as of 8/10/2022 ,DINO'S GMMA, LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c.149,§189.

This certificate expires in 30 days from the date of issuance.

Connie C. Carter, Director

Department of Unemployment Assistance



Commonwealth of Massachusetts  
Department of Revenue  
Geoffrey E. Snyder, Commissioner

mass.gov/dor

Letter ID: L0499618752  
Notice Date: August 3, 2022  
Case ID: 0-001-625-936



## CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



DINOS GMAA LLC  
1135 MAIN ST  
CONCORD MA 01742-3021



### *Why did I receive this notice?*

The Commissioner of Revenue certifies that, as of the date of this certificate, DINOS GMAA LLC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

This certificate doesn't certify that the taxpayer is compliant in taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law.

**This is not a waiver of lien issued under Chapter 62C, section 52 of the Massachusetts General Laws.**

### *What if I have questions?*

If you have questions, call us at (617) 887-6400 or toll-free in Massachusetts at (800) 392-6089, Monday through Friday, 9:00 a.m. to 4:00 p.m..

### *Visit us online!*

Visit [mass.gov/dor](http://mass.gov/dor) to learn more about Massachusetts tax laws and DOR policies and procedures, including your Taxpayer Bill of Rights, and MassTaxConnect for easy access to your account:

- Review or update your account
- Contact us using e-message
- Sign up for e-billing to save paper
- Make payments or set up autopay

Edward W. Coyle, Jr., Chief  
Collections Bureau



*The Commonwealth of Massachusetts*  
*Secretary of the Commonwealth*  
*State House, Boston, Massachusetts 02133*

William Francis Galvin  
Secretary of the  
Commonwealth

August 3, 2022

TO WHOM IT MAY CONCERN:

I hereby certify that a certificate of organization of a Limited Liability Company was filed in this office by

**DINO'S GMAA, LLC**

in accordance with the provisions of Massachusetts General Laws Chapter 156C on **November 2, 2016**.

I further certify that said Limited Liability Company has filed all annual reports due and paid all fees with respect to such reports; that said Limited Liability Company has not filed a certificate of cancellation; that there are no proceedings presently pending under the Massachusetts General Laws Chapter 156C, § 70 for said Limited Liability Company's dissolution; and that said Limited Liability Company is in good standing with this office.

I also certify that the names of all managers listed in the most recent filing are: **MARIA KAKOUTSIS**

I further certify, the names of all persons authorized to execute documents filed with this office and listed in the most recent filing are: **MARIA KAKOUTSIS**

The names of all persons authorized to act with respect to real property listed in the most recent filing are: **MARIA KAKOUTSIS**

In testimony of which,

I have hereunto affixed the

Great Seal of the Commonwealth

on the date first above written.

A handwritten signature in cursive script that reads "William Francis Galvin".

*William Francis Galvin*

Secretary of the Commonwealth



**Dee's Corner LLC 1135 Main St., Concord MA 01742**

To Whom it May Concern:

Re: RK Earth Corp

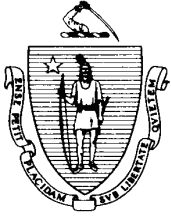
Currently Dino's GMAA, LLC has a lease with Dee's Corner for the space located at 1135 Main St. With the change of ownership to RK Earth Corp. the lease will not terminate but transfer over to the new tenant. The current lease is in effect through May 2026 with an additional 5-year extension.

Regards,

Sandra Martin

*Sandra Martin*

Dee's Corner



*The Commonwealth of Massachusetts*  
*Alcoholic Beverages Control Commission*  
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
 www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
 MONETARY TRANSMITTAL FORM**

**APPLICATION FOR A TRANSFER OF LICENSE**

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.**

**ECRT CODE: RETA**

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT**

**ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)**

**ENTITY/ LICENSEE NAME**

**ADDRESS**

**CITY/TOWN**

**STATE**

**ZIP CODE**

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC)         |
| <input checked="" type="checkbox"/> Transfer of License                | <input type="checkbox"/> Alteration of Licensed Premises  | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input checked="" type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement                       |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                                      |
|  | <input type="checkbox"/> Other <input type="text"/>   |   | <input type="checkbox"/> Change of DBA  |

**THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL**

**Alcoholic Beverages Control Commission**  
**95 Fourth Street, Suite 3**  
**Chelsea, MA 02150-2358**



**The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc**

**APPLICATION FOR A TRANSFER OF LICENSE**

Municipality

**1. TRANSACTION INFORMATION**

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Transfer of License | <input checked="" type="checkbox"/> Pledge of Inventory | <input type="checkbox"/> Change of Class  |
| <input type="checkbox"/> Alteration of Premises         | <input checked="" type="checkbox"/> Pledge of License   | <input type="checkbox"/> Change of Category   |
| <input type="checkbox"/> Change of Location             | <input type="checkbox"/> Pledge of Stock                | <input type="checkbox"/> Change of License Type<br>(\$12 ONLY, e.g. "club" to "restaurant") |
| <input type="checkbox"/> Management/Operating Agreement | <input type="checkbox"/> Other <input type="text"/>     |   |

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

WE ARE APPLYING FOR A TRANSFER OF LIQUORS LICENSE FROM DINO'S KOUZINA TO RK EARTH CORP  
THE THEME OF OUR BUSINESS OPERATION WILL BE TO CONTINUE TO PROVIDE A QUALITY CASUAL DINING TAKE OUT EAT IN RESTAURANT UNDER  
THE SAME DBA DINO'S KOUZINA & PIZZERIA

**2. LICENSE CLASSIFICATION INFORMATION**

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
On-Premises-12	\$12 Restaurant	Wines and Malt Beverages	Annual

**3. BUSINESS ENTITY INFORMATION**

The entity that will be issued the license and have operational control of the premises.

Current or Seller's License Number  FEIN

Entity Name

DBA  Manager of Record

Street Address

Phone  Email

Add'l Phone  Website

**4. DESCRIPTION OF PREMISES**

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. If this application alters the current premises, provide the specific changes from the last approved description. You must also submit a floor plan.

RETAIL RESTAURANT OPERATION HAS ONE MAIN FLOOR WITH AN ENTRANCE / EXIT FOR CUSTOMERS AND / EXIT IN THE BACK OF THE KITCHEN IN CASE OF EMERGENCY. TOTAL MAIN FLOOR SQ FOOTAGE IS 1033 SQ. FEET WITH INSIDE SEATING ONLY.

Total Sq. Footage	<input type="text" value="1033"/>	Seating Capacity	<input type="text" value="24 SEATS"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text" value="1"/>	Number of Exits	<input type="text" value="2"/>	Number of Floors	<input type="text" value="1"/>

### APPLICATION FOR A TRANSFER OF LICENSE

#### 5. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

Transferor Entity Name <input style="width: 95%;" type="text" value="RK EARTH CORP"/>	By what means is the license being transferred? <input style="width: 95%;" type="text" value="Purchase"/>
---	---

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
<input style="width: 95%;" type="text" value="RAFAEL KLIPP BORGES"/>	<input style="width: 95%;" type="text" value="PRESIDENT / CLERK"/>	<input style="width: 95%;" type="text" value="100"/>
<input style="width: 95%;" type="text" value="RAFAEL KLIPP BORGES"/>	<input style="width: 95%;" type="text" value="TREASURER / DIRECTOR"/>	<input style="width: 95%;" type="text" value="100"/>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>

#### 6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLC Members, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises (Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal <input style="width: 95%;" type="text" value="RAFAEL KLIPP BORGES"/>	Residential Address <input style="width: 95%;" type="text" value="20 VINCENT AVE, LANCASTER-MA 01523"/>	SSN <input style="width: 95%;" type="text"/>	DOB <input style="width: 95%;" type="text"/>
Title and or Position <input style="width: 95%;" type="text" value="PRESIDENT / DIRECTOR / CLERK"/>	Percentage of Ownership <input style="width: 95%;" type="text" value="100"/>	Director/ LLC Manager <input checked="" type="radio"/> Yes <input type="radio"/> No	US Citizen <input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident <input checked="" type="radio"/> Yes <input type="radio"/> No			
Name of Principal <input style="width: 95%;" type="text"/>	Residential Address <input style="width: 95%;" type="text"/>	SSN <input style="width: 95%;" type="text"/>	DOB <input style="width: 95%;" type="text"/>
Title and or Position <input style="width: 95%;" type="text"/>	Percentage of Ownership <input style="width: 95%;" type="text"/>	Director/ LLC Manager <input type="radio"/> Yes <input type="radio"/> No	US Citizen <input type="radio"/> Yes <input type="radio"/> No
MA Resident <input type="radio"/> Yes <input type="radio"/> No			
Name of Principal <input style="width: 95%;" type="text"/>	Residential Address <input style="width: 95%;" type="text"/>	SSN <input style="width: 95%;" type="text"/>	DOB <input style="width: 95%;" type="text"/>
Title and or Position <input style="width: 95%;" type="text"/>	Percentage of Ownership <input style="width: 95%;" type="text"/>	Director/ LLC Manager <input type="radio"/> Yes <input type="radio"/> No	US Citizen <input type="radio"/> Yes <input type="radio"/> No
MA Resident <input type="radio"/> Yes <input type="radio"/> No			
Name of Principal <input style="width: 95%;" type="text"/>	Residential Address <input style="width: 95%;" type="text"/>	SSN <input style="width: 95%;" type="text"/>	DOB <input style="width: 95%;" type="text"/>
Title and or Position <input style="width: 95%;" type="text"/>	Percentage of Ownership <input style="width: 95%;" type="text"/>	Director/ LLC Manager <input type="radio"/> Yes <input type="radio"/> No	US Citizen <input type="radio"/> Yes <input type="radio"/> No
MA Resident <input type="radio"/> Yes <input type="radio"/> No			

**APPLICATION FOR A TRANSFER OF LICENSE**

**6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST (Continued...)**

Name of Principal	Residential Address	SSN	DOB
<b>RAFAEL KLIPP BORGES</b>	20 VINCENT AVE	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
PRESIDENT / DIRECTOR / CLERK	100	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
			MA Resident
			<input type="radio"/> Yes <input type="radio"/> No

Additional pages attached?  Yes  No

**CRIMINAL HISTORY**  
 Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.  Yes  No

**6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE**  
 Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
RK WING CORP	WINE & MALT BEVEREC	RK WING CORP	CONCORD - MA 01742

**6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE**  
 Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

## APPLICATION FOR A TRANSFER OF LICENSE

### 6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

### 7. CORPORATE STRUCTURE

Entity Legal Structure

Date of Incorporation

State of Incorporation

Is the Corporation publicly traded?  Yes  No

### 8. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

Yes  No

### 9. APPLICATION CONTACT

The application contact is the person who the licensing authorities should contact regarding this application.

Name:

Phone:

Title:

Email:

**APPLICATION FOR A TRANSFER OF LICENSE**

**10. FINANCIAL DISCLOSURE**

A. Purchase Price for Real Estate	<input type="text"/>
B. Purchase Price for Business Assets	290,000.00
C. Other* (Please specify)	<input type="text"/>
D. Total Cost	290,000.00

\*Other: (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):"

**SOURCE OF CASH CONTRIBUTION**

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
RAFAEL KLIPP BORGES	50,000.00
<b>Total</b>	<b>\$ 50,000.00</b>

**SOURCE OF FINANCING**

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
MARIA KAKOUTSIS	\$ 240,000.00	PROMISSORY NOTE	<input type="radio"/> Yes <input checked="" type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

**FINANCIAL INFORMATION**

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

A PROMISSORY NOTE IN THE AMOUNT OF \$ 240,000.00 PAYABLE TO MARIA KAKOUTSIS & GREGORIOS PARASCHOS " DINO'S GMAA LLC FROM RK EARTH CORP OR RAFAEL KLIPP BORGES.

**11. PLEDGE INFORMATION**

Please provide signed pledge documentation.

Are you seeking approval for a pledge?  Yes  No

Please indicate what you are seeking to pledge (check all that apply)  License  Stock  Inventory

To whom is the pledge being made?

MARIA KAKOUTSIS & GREGORIOS PARASCHOS " DINO'S GMAA LLC"

## 12. MANAGER APPLICATION

### A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name

Date of Birth

Residential Address

Email

Phone

Please indicate how many hours per week you intend to be on the licensed premises

### B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?\*

Yes  No \*Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

Yes  No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

### C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
04/01/2001	Present	Manager	Rossini's Pizzeria Restaurant	Gilbert Almeida

### D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action?  Yes  No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature



Date

### 13. MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?

Yes  No

If yes, please fill out section 13.

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

**IMPORTANT NOTE:** A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

### 13A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name  Address  Phone

Name of Principal  Residential Address  SSN  DOB

Title and or Position  Percentage of Ownership  Director  Yes  No US Citizen  Yes  No MA Resident  Yes  No

Name of Principal  Residential Address  SSN  DOB

Title and or Position  Percentage of Ownership  Director  Yes  No US Citizen  Yes  No MA Resident  Yes  No

Name of Principal  Residential Address  SSN  DOB

Title and or Position  Percentage of Ownership  Director  Yes  No US Citizen  Yes  No MA Resident  Yes  No

Name of Principal  Residential Address  SSN  DOB

Title and or Position  Percentage of Ownership  Director  Yes  No US Citizen  Yes  No MA Resident  Yes  No

#### CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?

Yes  No

If yes, attach an affidavit providing the details of any and all convictions.

### 13B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES

#### LICENSE

Does any individual or entity identified in question 13A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

### 13C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 13A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

### 13D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 13A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement

### 13E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question section 13B, 13C, 13D ever been suspended, revoked or cancelled?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

### 13F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee?

Yes  No

b. Will the licensee retain control of the business finances?

Yes  No

c. Does the management entity handle the payroll for the business?

Yes  No

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

\$ per month/year (indicate amount)

% of alcohol sales (indicate percentage)

% of overall sales (indicate percentage)

other (please explain)

**ABCC Licensee Officer/LLC Manager**

**Management Agreement Entity Officer/LLC Manager**

Signature:

Signature:

Title:

Title:

Date:

Date:

## **ADDITIONAL INFORMATION**

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

THE LIQUOR LICENSE MANAGER AND THE SHAREHOLDER INTEND TO CONTINUE THE TRADITION IN WEST CONCORD OF PROVIDING A QUALITY CASUAL RESTAURANT DINING AND TAKE OUT EXPERIENCE. OUR INTENTION IS TO MAINTAIN AND OBTAIN SATISFIED REPEAT AND NEW LOYAL CUSTOMER AS THE RESULT OF BOTH PROVIDING THE BEST TASTING FOOD, BEVEREGES AND SERVICE, AND ENGAGING OUR POLICY OF THE " CUSTOMER IS ALWAYS FIRST' OBJECTIVE WITHIN OUR LEGAL OBLIGATIONS.

**APPLICANT'S STATEMENT**

I, RAFAEL KLIPP BORGES the:  sole proprietor;  partner;  corporate principal;  LLC/LLP manager  
Authorized Signatory

of RK EARTH CORP  
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: 

Date: 06/20/2022

Title: OWNER

### CORPORATE VOTE

The Board of Directors or LLC Managers of  Entity Name  
duly voted to apply to the Licensing Authority of  and the  
City/Town  
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on   
Date of Meeting

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License                | <input type="checkbox"/> Alteration of Licensed Premises  | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other <input type="text"/>   |   | <input type="checkbox"/> Change of DBA                                |

"VOTED: To authorize   
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint   
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

For Corporations ONLY

A true copy attest,

  
Corporate Officer /LLC Manager Signature

  
Corporation Clerk's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

## ADDENDUM A

### 6. PROPOSED OFFICER, STOCK OR OWNERSHIP INTEREST (Continued...)

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Percentage of Ownership in Entity being Licensed  
(Write "NA" if this is the entity being licensed)



Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

#### CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?  
If yes, attach an affidavit providing the details of any and all convictions.

 Yes  No



JEAN M. LORIZIO, ESQ.  
CHAIRMAN

Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150

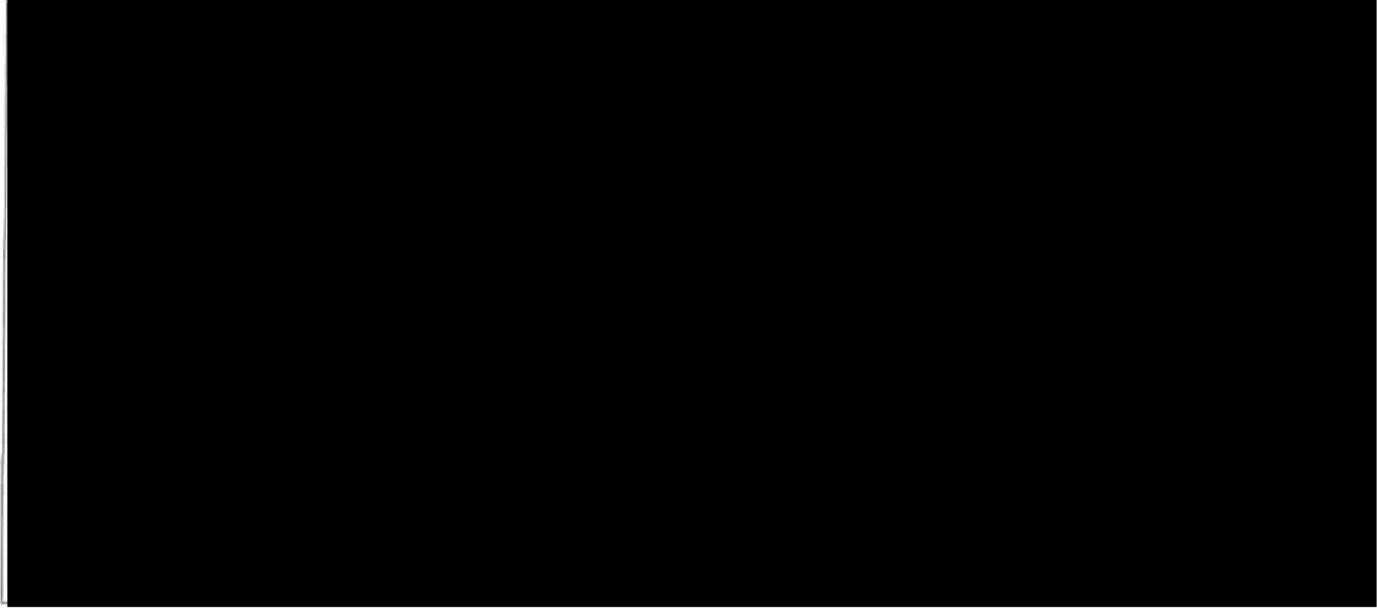
CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER: <small>(OF EXISTING LICENSES)</small>	LICENSEE NAME: RK EARTH CORP " DBA DINO'S KOUZINA & PIZZERIA "	CITY/TOWN: CONCORD-MA 01742
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**APPLICANT INFORMATION**



**PRINT AND SIGN**

PRINTED NAME: RAFAEL KLIPP BORGES	APPLICANT/EMPLOYEE SIGNATURE: <i>Rafael Klipp Borges</i>
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**NOTARY INFORMATION**

On this 10th day of January 2022 before me, the undersigned notary public, personally appeared Rafael Klipp Borges  
(name of document signer), proved to me through satisfactory evidence of identification, which were drivers License  
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

*Ashley Caretta*  
NOTARY

**DIVISION USE ONLY**

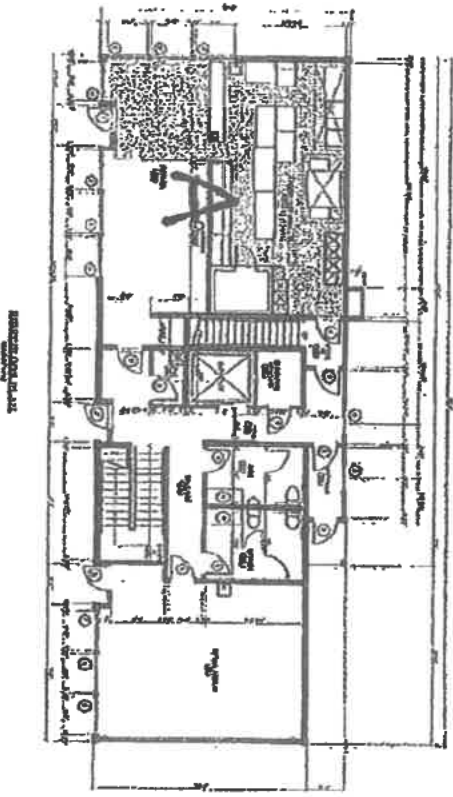
REQUESTED BY: <small>SIGNATURE OF CORI-AUTHORIZED EMPLOYEE</small>
---

The DCI Identify Theft Index PIN Number is to be completed by those applicants that have been issued an Identify Theft PIN Number by the DCI. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. ALL CORI request forms that include this field are required to be submitted to the DCI via mail or by fax to (617) 690-4634.

**EXHIBIT A**

**Floor Plan of Premises**

SCALE: ARCHITECTURAL DRAWING - NOT TO SCALE, CONSULT DRAWING FOR DIMENSIONS



A-1





**Northern Bank  
& Trust Company**

Neighbors you can bank on

Member FDIC

**TREASURERS CHECK**

53-309/113

140000079X

DATE 01/14/2022

**PAY TO THE  
ORDER OF**

Eliopoulos & Eliopoulos PC

**\$25,000.00**

Twenty-Five Thousand and 00/100ths Dollars

If this check is lost or stolen, a sworn statement and waiting period is required for reissue.

**MEMO** Rafael K Borges

Payable Through  
Northern Bank and Trust Company  
275 Mishawum Rd., Woburn, MA 01801

**CUSTOMER COPY**

**NON - NEGOTIABLE**



Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150

JEAN M. LORIZIO, ESQ.  
CHAIRMAN

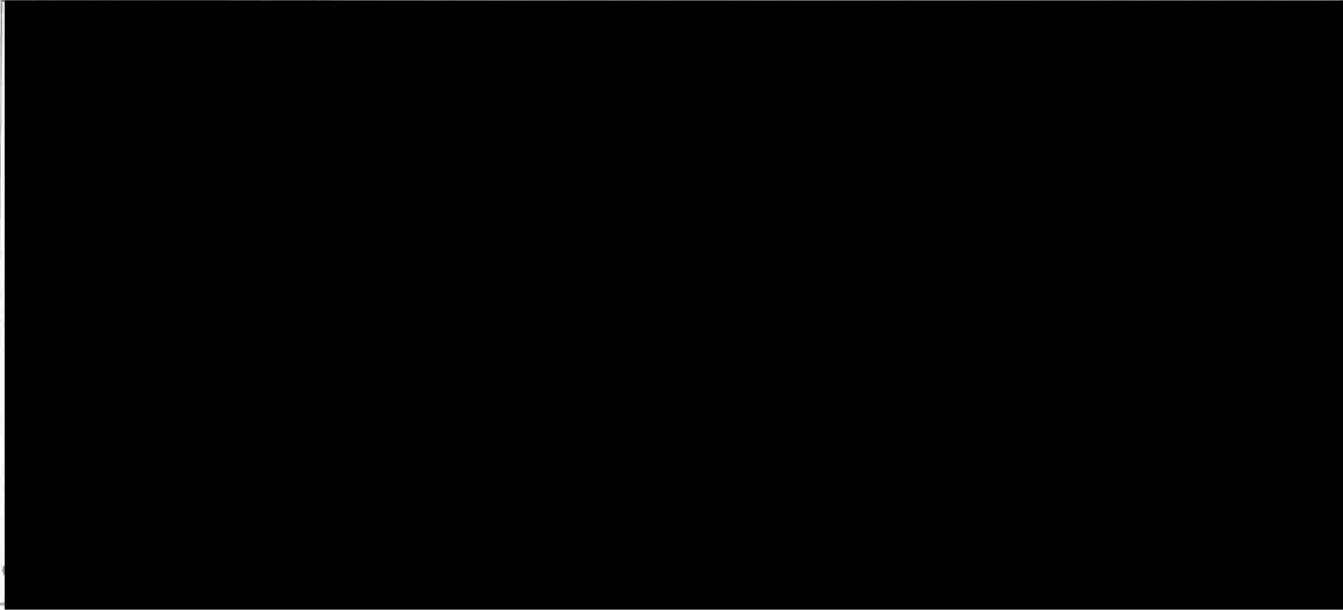
CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER:  LICENSEE NAME: RK EARTH CORP " DINO'S KOUZINA & PIZZERIA CITY/TOWN: CONCORD-MA 01742  
(IF EXISTING LICENSEE)

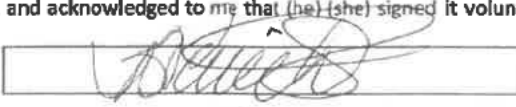
**APPLICANT INFORMATION**

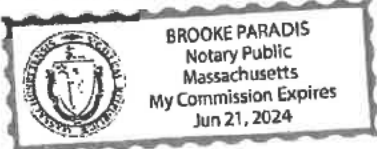


**PRINT AND SIGN**

PRINTED NAME: LECILIA BORGES DE SOUZA APPLICANT/EMPLOYEE SIGNATURE: *Lecilia Borges de Souza*

**NOTARY INFORMATION**

On this 10<sup>th</sup> January 2023 before me, the undersigned notary public, personally appeared Lecilia de Souza  
(name of document signer), proved to me through satisfactory evidence of identification, which were WALD VALIC  
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.  
  
NOTARY



**DIVISION USE ONLY**

REQUESTED BY:  SIGNATURE OF CONFIDENTIALIZED EMPLOYEE

The DCI Identity Theft Index PIN Number is to be completed by those applicants that have been issued an Identity Theft PIN Number by the DCI. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. ALL CORI request forms that include this field are required to be submitted to the DCI via mail or by fax to (617) 860-4834.



**The Commonwealth of Massachusetts  
William Francis Galvin**

Minimum Fee: \$250.00

Secretary of the Commonwealth, Corporations Division  
One Ashburton Place, 17th floor  
Boston, MA 02108-1512  
Telephone: (617) 727-9640

**Articles of Organization**

(General Laws, Chapter 156D, Section 2.02; 950 CMR 113.15)

Identification Number: 001553111

**ARTICLE I**

The exact name of the corporation is:

RK EARTH CORP

**ARTICLE II**

Unless the articles of organization otherwise provide, all corporations formed pursuant to G.L. C156D have the purpose of engaging in any lawful business. Please specify if you want a more limited purpose:

TO OPERATE A PIZZA SHOP. TO RENT, LEASE, OR BUY A PROPERTY TO OPERATE THE SHOP. TO ENGAGE IN ANY OTHER NECESSARY BUSINESS ACTIVITIES AS REQUIRED BUT WITHIN THE LIMITS OF GENERAL BUSINESS LAWS OF COMMONWEALTH OF MASSACHUSETTS

**ARTICLE III**

State the total number of shares and par value, if any, of each class of stock that the corporation is authorized to issue. All corporations must authorize stock. If only one class or series is authorized, it is not necessary to specify any particular designation.

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
CNP	\$0.00000	20,000	\$0.00	20,000

G.L. C-156D eliminates the concept of par value, however a corporation may specify par value in Article III. See G.L. C-156D Section 6.21 and the comments thereto.

**ARTICLE IV**

If more than one class of stock is authorized, state a distinguishing designation for each class. Prior to the issuance of any shares of a class, if shares of another class are outstanding, the Business Entity must provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of that class and of each other class of which shares are outstanding and of each series then established within any class.

NONE

**ARTICLE V**

The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are:

The information contained in Article VIII is not a permanent part of the Articles of Organization.

a,b. The street address of the initial registered office of the corporation in the commonwealth and the name of the initial registered agent at the registered office:

Name: RAFAEL KLIPP BORGES  
No. and Street: 1135 MAIN ST  
City or Town: CONCORD State: MA Zip: 01742 Country: USA

c. The names and street addresses of the individuals who will serve as the initial directors, president, treasurer and secretary of the corporation (an address need not be specified if the business address of the officer or director is the same as the principal office location):

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
PRESIDENT	RAFAEL KLIPP BORGES	20 VICENT AVENUE LANCASTER, MA 01523 USA
TREASURER	RAFAEL KLIPP BORGES	20 VICENT AVENUE LANCASTER, MA 01523 USA
SECRETARY	LECILIA B DE SOUZA	20 VICENT AVENUE LANCASTER, MA 01523 USA
VICE PRESIDENT	RAFAEL KLIPP BORGES	20 VICENT AVENUE LANCASTER, MA 01523 USA
DIRECTOR	RAFAEL KLIPP BORGES	20 VICENT AVENUE LANCASTER, MA 01523 USA

d. The fiscal year end (i.e., tax year) of the corporation:  
December

e. A brief description of the type of business in which the corporation intends to engage:

PIZZA AND DELI SHOP

f. The street address (post office boxes are not acceptable) of the principal office of the corporation:

No. and Street: 1135 MAIN ST  
City or Town: CONCORD State: MA Zip: 01742 Country: USA

g. Street address where the records of the corporation required to be kept in the Commonwealth are located (post office boxes are not acceptable):

No. and Street: 1135 MAIN ST  
City or Town: CONCORD State: MA Zip: 01742 Country: USA

which is

- its principal office                      \_\_\_ an office of its transfer agent  
\_\_\_ an office of its secretary/assistant secretary                      \_\_\_ its registered office

Signed this 3 Day of January, 2022 at 11:37:39 AM by the incorporator(s). (If an existing corporation is acting as incorporator, type in the exact name of the business entity, the state or other jurisdiction where it was incorporated, the name of the person signing on behalf of said business entity and the title he/she holds or other authority by which such action is taken.)

RAFAEL KLIPP BORGES

## ARTICLE VI

Other lawful provisions, and if there are no provisions, this article may be left blank.

ARTICLE VI A: LIMITATION OF LIABILITY OF DIRECTORS. NO DIRECTOR OF THIS CORPORATION SHALL BE PERSONALLY LIABLE TO THE CORPORATION OR ITS STOCKHOLDERS FOR MONETARY DAMAGES FOR BREACH OF FIDUCIARY DUTY AS A DIRECTOR NOT WITHSTANDING ANY PROVISION OF LAW IMPOSING SUCH LIABILITY. PROVIDE, HOWEVER, THAT THIS SHALL NOT ELIMINATE OR LIMIT ANY LIABILITY OF DIRECTOR FOR ANY BREACH OF THE DIRECTOR'S DUTY OF LOYALTY TO THE CORPORATION OR ITS STOCKHOLDERS, FOR ACTS OR OMISSIONS NOT IN GOOD FAITH OR WHICH INVOLVE INTENTIONAL MISCONDUCT OR KNOWING VIOLATION OF LAW, OR WITH RESPECT TO ANY TRANSACTION FROM WHICH THE DIRECTOR DERIVED AN IMPROPER PERSONAL BENEFIT. NO AMENDMENT OR REPEAL OF THIS ARTICLE SHALL ADVERSELY AFFECT THE RIGHT AND PROTECTION AFFORDED TO A DIRECTOR OF THIS CORPORATION UNDER THIS ARTICLE FOR ACTS OR OMISSIONS OCCURRING PRIOR TO SUCH AMENDMENT OR REPEAL.

ARTICLE VI B: TRANSACTIONS WITH INTERESTED PERSON. UNLESS ENTERED INTO IN BAD FAITH, NO CONTRACTS OR TRANSACTION BY THIS CORPORATION SHALL BE VOID, AVOIDABLE OR IN ANY WAY AFFECTED BY REASON OF THE FACT THAT IT IS WITH AN INTERESTED PERSON. FOR THE PURPOSES OF THIS ARTICLE, A INTERESTED PERSON MEANS ANY PERSON OR ORGANIZATION IN ANY WAY INTERESTED IN THIS CORPORATION WHETHER AS AN OFFICER, DIRECTOR, STOCKHOLDERS, EMPLOYEE OR OTHERWISE, AND ANY OTHER ENTITY IN WHICH ANY SUCH PERSON OR ORGANIZATION OR THIS CORPORATION IS IN ANY WAY INTERESTED. UNLESS SUCH CONTRACT OR TRANSACTION WAS ENTERED INTO IN A BAD FAITH, NO INTERESTED PERSON, BECAUSE OF SUCH INTEREST, SHALL BE LIABLE TO THIS CORPORATION OR TO ANY OTHER PERSON OR ORGANIZATION FOR ANY LOSS OR EXPENSE INCURRED BY REASON OF SUCH CONTRACT OR TRANSACTION OR SHALL BE ACCOUNTABLE FOR ANY GAIN OR PROFIT REALIZED FROM SUCH CONTRACT OR TRANSACTION. PROVIDED THAT THE INTERESTED PERSON REASONABLY BELIEVED THE CONTRACT OR TRANSACTION TO BE IN THE BEST INTEREST OF THE CORPORATION. THE PROVISION OF THIS ARTICLE SHALL BE OPERATIVE NOTWITHSTANDING THE FACT THAT THE PRESENCE OF AN INTERESTED PERSON WAS NECESSARY TO CONSTITUTE A QUORUM AT A MEETING OF DIRECTORS OR DIRECTORS OR STOCKHOLDERS OF THIS CORPORATION ALL WHICH SUCH CONTRACT OR TRANSACTION WAS AUTHORIZED OR THAT THE VOTE AN INTERESTED PERSON WAS NECESSARY FOR THE AUTHORIZATION OF SUCH CONTRACT OR TRANSACTION.

ARTICLE VI C: STOCKHOLDERS MEETING OF STOCKHOLDERS OF THIS CORPORATION MAY BE HELD ANY WHERE IN THE UNITED STATES.

ARTICLE VI D: AMENDMENT OF THE ARTICLE THIS CORPORATION MAY, AT A MEETING CALLED FOR THE PURPOSE, BY A MAJORITY VOTE OF EACH CLASS OF STOCK OUTSTANDING AND ENTITLED TO VOTE THEREON, AMEND THE ARTICLES.

**Note: The preceding six (6) articles are considered to be permanent and may be changed only by filing appropriate articles of amendment.**

## ARTICLE VII

The effective date of organization and time the articles were received for filing if the articles are not rejected within the time prescribed by law. If a later effective date is desired, specify such date, which may not be later than the 90th day after the articles are received for filing.

**Later Effective Date: 1/4/2022 Time: 4:00 PM**

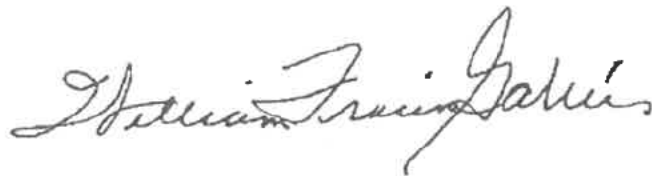
## ARTICLE VIII

**THE COMMONWEALTH OF MASSACHUSETTS**

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

January 03, 2022 11:35 AM

A handwritten signature in cursive script that reads "William Francis Galvin". The signature is written in dark ink and is centered on the page.

**WILLIAM FRANCIS GALVIN**

*Secretary of the Commonwealth*

© 2001 - 2022 Commonwealth of Massachusetts  
All Rights Reserved

## ASSIGNMENT AND ASSUMPTION OF LEASE

This Assignment and Assumption of Lease, ("Assignment") which has been executed this 31<sup>st</sup> day of April, 2017, is made by and among NTINO's Phase II, Inc. a Massachusetts Corporation ("Assignor") and Dino's GMAA, LLC a Massachusetts Limited Liability Company ("Assignee").

WHEREAS, pursuant to that certain Lease agreement dated April 21, 2011 between NTINO's Phase II, Inc., as Tenant, and Dee's Corner, LLC as Landlord, as affected by that certain Assignment and Assumption of Lease between Assignor and Assignee (the "Assignment") of even date herewith (together comprising the "Lease," a complete copy of which is attached hereto and made a part hereof as Exhibit A), Landlord leases to Assignor, as Tenant, certain demised premises described in the Lease (the "Premises"), for a term (which is the first Extension Term under said Lease) expiring on April 30, 2021, with one additional five (5) year option to extend the Lease (subject to and on the conditions set forth in the Lease) until April 30, 2026;

WHEREAS, no further amendments have been made to the Lease;

WHEREAS, Assignor desires to assign all of its right, title and interest under the Lease to Assignee, and Assignee desires to accept such assignment, all in accordance with the terms contained herein;

WHEREAS, the parties agree that all capitalized terms not defined herein shall have the same meaning as ascribed thereto in the Lease;

THEREFORE, Assignor and Assignee agree as follows, notwithstanding anything to the contrary contained in the Lease:

1. **Effective Date.** Except for the provisions of this Assignment referred to in the next sentence, the effective date of this Assignment shall be the a. the Closing date of business transaction or b. the date on which approval has been obtained from Landlord for the assignment of the Lease, Assignor and Assignee agreeing to diligently pursue the same (the "Effective Date").

2. **No Amendment of Lease.** Nothing contained in this Assignment shall be construed to modify or amend the Lease in any manner or be deemed a waiver by Landlord of any terms or conditions of the Lease.

3. **Assumption; Acknowledgement; Release and Consent.** As of the Effective Date, Assignee hereby accepts the foregoing assignment, and assumes and agrees to pay, perform, and discharge, and otherwise be and remain responsible for all monetary and non-

monetary obligations, liabilities, and indebtedness required directly or indirectly under the terms of the Lease to be paid, performed, or discharged by or on the part of the tenant under the Lease whether accruing or occurring on or after the Effective Date.

Assignee further agrees to perform, observe and comply with all of the covenants and conditions required to be performed or complied with by tenant under the Lease, accruing or arising on and after the Effective Date.

4. **Adjustments.** Any and all applicable charges or costs owed as Tenant under the Lease, including but not limited to Minimum Annual Rent, Percentage Rent, additional rent, utilities, Taxes, and Common Area Costs and Expenses, shall be adjusted as necessary or as may be agreed between Assignor and Assignee, on the Effective Date, it being agreed that, notwithstanding the provisions of Section 3 above, Assignee shall be responsible to Landlord for any and all such charges and costs occurring after the Effective Date.

5. **Brokers.** Assignee and Assignor each warrant and represent to the other party to this Assignment that no broker, finder, or agent has acted for or on its respective behalf in connection with the negotiation, execution, or procurement of this assignment.

Under no circumstances shall Landlord be liable for any brokerage commission(s) or any other charge or expense in connection with this consent or this assignment whatsoever. Assignor and Assignee each hereby jointly and severally agree to indemnify, defend and hold Landlord harmless from and against the same, and against any cost or expense (including, but not limited to reasonable attorneys' fees and court costs) incurred by Landlord in resisting any claim for any such brokerage commission.

6. **Authorizations.** Each of the parties hereto represents and warrants that all necessary corporate action on its behalf authorizing the execution hereof has been duly taken. The parties confirm that, except as modified hereby, the Lease remains unchanged and in full force and effect.

7. **Counterparts.** This Assignment is executed as a sealed instrument and in multiple counterparts, each of which shall be deemed an original for all purposes, but all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have caused this instrument to be executed on the day and year first above written.

ASSIGNOR

NTING'S Phase II, Inc

By: Perse Tatas, Pres.

Title: \_\_\_\_\_

**ASSIGNEE**

M. Kakoutsis

By: Maria Kakoutsis

Title: manager

## CONSENT TO ASSIGNMENT OF AND AMENDMENT TO LEASE

This Consent to Assignment of and Amendment to Lease, ("Amendment") which has been executed this 3<sup>rd</sup> day of March, 2017 (the "Execution Date"), is made by and among NTINO's Phase II, Inc. a Massachusetts Corporation ("Assignor"), Dee's Corner, LLC, a a Massachusetts Limited Liability Company ("Landlord"), and Dino's GMAA, LLC a duly organized and existing Massachusetts Limited Liability Company with an address of 175 Littleton Road, Unit B19, Chelmsford, MA 01824 ("Assignee").

**WHEREAS**, pursuant to that certain Lease agreement dated April 21, 2011 between NTINO's Phase II, Inc., as Tenant, and Dee's Corner, LLC, as affected by that certain Assignment and Assumption of Lease between Assignor and Assignee (the "Assignment") of even date herewith (together comprising the "Lease," a complete copy of which is attached hereto and made a part hereof as Exhibit A), Landlord leases to Assignor, as Tenant, certain demised premises described in the Lease (the "Premises"), for a term (which is the first Extension Term under said Lease) expiring on April 30, 2021, with one additional five (5) year option to extend the Lease (subject to and on the conditions set forth in the Lease) until April 30 2026;

**WHEREAS**, no further amendments have been made to the Lease;

**WHEREAS**, Assignor desires to assign all of its right, title and interest under the Lease to Assignee, and Assignee desires to accept such assignment, all in accordance with the terms contained in the Assignment;

**WHEREAS**, subject to the terms and conditions contained in this Amendment, Landlord consents to the Assignment as required pursuant to Section 14 of the Lease;

**WHEREAS**, subject to the terms and conditions contained in this Amendment, Landlord and Assignee are amending said Lease as set forth herein;

**WHEREAS**, the parties agree that all capitalized terms not defined herein shall have the same meaning as ascribed thereto in the Lease;

**THEREFORE**, Assignor, Assignee, and Landlord agree as follows, notwithstanding anything to the contrary contained in the Lease:

1. **Effective Date.** Except for the provisions of this Assignment referred to in the next sentence, the effective date of this Assignment shall be the Closing date of business transaction wherein Assignor sells its business located at the Leased Premises to Assignee and whereupon the Assignee shall provide written notice of same to Landlord within twenty-four (24) hours of such Closing, Assignor and Assignee agreeing to diligently pursue the same (the "Effective Date"). If the Effective Date has not occurred by May 2, 2017, then this Amendment shall be null and void,

except that the provisions of the last paragraph of Section 3, and Section 5 in its entirety, shall each survive.

2. **No Amendment of Lease.** Except as provided for in Section 4 below, nothing contained in this Amendment shall be construed to modify or amend the Lease in any manner or be deemed a waiver by Landlord of any terms or conditions of the Lease.

3. **Assumption; Acknowledgement; Release and Consent.** As of the Effective Date, Assignee hereby accepts the Assignment, and assumes and agrees to pay, perform, and discharge, and otherwise be and remain responsible for all monetary and non-monetary obligations, liabilities, and indebtedness required directly or indirectly under the terms of the Lease to be paid, performed, or discharged by or on the part of the tenant under the Lease whether accruing or occurring on or after the Effective Date. Assignee hereby acknowledges that Assignee has inspected the Leased Premies and has found same to be in first class condition without defects and accepts same in their as-is condition without warranties or representation regarding their fitness for a particular purpose.

Assignee further agrees to perform, observe and comply with all of the covenants and conditions required to be performed or complied with by tenant under the Lease, accruing or arising on and after the Effective Date.

As provided by Section 14 of the Lease, this Consent to Assignment and Amendment to Lease shall not in any way impair the continuing primary liability (which after an Transfer/Closing shall be joint and several with the Assignee) of Assignor hereunder for amounts due under the Lease during the first year following the effective date of the Transfer , and no approval in a particular instance shall be deemed to be a waiver of the obligation to obtain Landlord's approval in the case of any other Transfer. As between Landlord and Assignor, Assignor shall be jointly and severally responsible for and liable for all obligations of the Assignee/tenant under the Lease arising or accruing under the Lease before and within one year from the **Effective Date**, but shall not be responsible for or liable for obligations or liabilities of the Tenant under the Lease arising or accruing after one year after the **Effective Date** .

From and after the date hereof, Landlord shall have the right (without any notice to Assignor) to deal solely with Assignee as the tenant under the Lease, notwithstanding any obligations of Assignor hereunder.

In consideration of the terms hereof, Landlord hereby consents to the Assignment subject to the requirments hereto; however this consent shall not apply to any further transfers by Assignee. Assignee shall not further sublet the Premises or any portion thereof, or assign the Lease without the prior consent of Landlord, which consent shall be granted or withheld subject to and in accordance with Section 14 of the Lease, as hereby amended.

*shall pay \$1,500.*

*shall pay \$1,500.*

Assignor and Assignee shall arrange among themselves and shall reimburse Landlord at the time of the Closing \$2,000.00 for any and all costs and expenses, including without implied limitation, reasonable attorney's fees and expenses, incurred by Landlord in conjunction with the evaluation, processing, and documentation of this requested assignment of the Lease.

4. **Lease Amendments.** As of the Effective Date, the parties to this Assignment hereby agree to the following amendments to the Lease:

A. **Extension Terms:** Landlord and Assignee agree there shall be two (2) additional Extension Terms added into said Lease which would bring the total amount of existing and outstanding options to extend the Lease from one (1) to three (3) that would be outstanding under the Lease and would be subject to and in accordance with the terms of said Lease. The Base Rent for the Extension Terms will be calculated in accordance with Exhibit C attached hereto and incorporated herein.

B. **Base Rent:** Base Rent as set forth in Article 1.11 of said Lease and as detailed in Schedule 1 of said Lease for said Extension Terms shall be reduced to \$3,000 per month for a period of 24 months following the Effective Date. Thereafter, the Base Rent shall be calculated in accordance with Schedule 1 of the Lease as amended by Exhibit C hereof as if the Base Rent had not been reduced as provided in this subsection 4.B.

C. Omitted

D. **Guarantee:** This Consent to Assignment and Amendment to Lease is subject to and contingent upon the simultaneous execution by Maria Kakoutsis of the GUARANTY OF LEASE attached hereto as Exhibit B.

E. **Insurance:** This Consent to Assignment and Amendment to Lease is subject to an contingent upon the delivery to the Landlord by the Assignee prior to such Closing on the business, of certificates of insurance meeting the requirements of the Lease, including the provisions of Section 1.20 and Section 13.

F. This Consent to Assignment and Amendment to Lease is subject to an contingent upon the delivery to the Landlord by the Assignee prior to such Closing on the business, of Rent for the month after the the date of such Closing.

G. Section 1.18 of the Lease is hereby amended by changing the Tenant's notice address to:

Maria Katoutsis  
Address: \_\_\_\_\_

H. In consideration of the reduced Rent as described in 4.B, above, notwithstanding the provisions of Section 1.12 of the Lease, Tenant agrees that for the Term of said Lease and all Extension Terms, Tenant shall remove all snow and ice from all walkways around the entire perimeter of the building of which the Leased Premises are a part to provide for reasonable and timely access and egress to and from all entrances and exits at the building for all tenants and visitors.

5. **Brokers.** Under no circumstances shall Landlord be liable for any brokerage commission(s) or any other charge or expense in connection with this Amendment whatsoever. By their acceptance of this consent, Assignor and Assignee each hereby jointly and severally agree to indemnify, defend and hold Landlord harmless from and against the same, and against any cost or expense (including, but not limited to reasonable attorneys' fees and court costs) incurred by Landlord in resisting any claim for any such brokerage commission.

6. **Authorizations.** Each of the parties hereto represents and warrants that all necessary corporate action on its behalf authorizing the execution hereof has been duly taken. The parties confirm that, except as modified hereby, the Lease remains unchanged and in full force and effect.

7. **Counterparts.** This Amendment is executed as a sealed instrument and in multiple counterparts, each of which shall be deemed an original for all purposes, but all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor, Landlord and Assignee have caused this instrument to be executed on the day and year first above written.

**ASSIGNOR**

NTINU's Phase II

By: 

Name: Perse Tatas

Title: President

**LANDLORD**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE**

Dinos DMAA LLC

By: 

Name: Maria Ka Koutsis

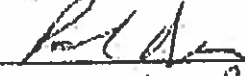
Title: manager

IN WITNESS WHEREOF, Assignor, Landlord and Assignee have caused this instrument to be executed on the day and year first above written.

**ASSIGNOR**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANDLORD**

DEE'S CORNER LLC  
By:   
Name: ROBERT DEE  
Title: MANAGER

**ASSIGNEE**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**Copy of the Lease**

## SHORT FORM OFFICE LEASE

THIS LEASE made between Landlord and Tenant as of April 21, 2011:

1. **REFERENCE DATA and DEFINITIONS:** When used in this Lease, the following terms will have the meanings specified in this Section 1:

1.1. **Landlord.** Dee's Corner, LLC, a Massachusetts Limited Liability Company with a business address of 33 Great Road, Shirley, MA 01464.

1.2. **Tenant.** ANTINO'S PHASE II, INC., a duly organized and existing Massachusetts corporation with a mailing address of 255 North Road, Unit 148, Chelmsford, MA 01824.

1.3. **Property.** Property known as 1135 Main Street, Concord, Massachusetts.

1.4. **Premises.** Suite(s) A, on the 1<sup>st</sup> floor of the Property, containing 1,033 rentable square feet [as more particularly outlined on the Floor Plan attached hereto as EXHIBIT A and incorporated herein by reference].

1.5. **Term.** Five (5) Lease Years, beginning on the Commencement Date, and in the event of an Extension Term or Extension Terms as described hereinafter, the Term shall be extended accordingly.

1.6. **Commencement Date.** The earlier to occur of (a) the date that Tenant first opens for business at the Premises or (b) May 1, 2011. Landlord has delivered possession of the Premises as of execution of this Lease.

1.7. **Termination Date.** The last day of the Term, as duly extended or earlier terminated.

1.8. **Lease Year.** Each period of twelve full (12) calendar months, beginning on the Commencement Date, if such Date is the first day of a calendar month and if not, on the first day of the first full calendar month thereafter, and on the anniversary of such date in each year thereafter. Any partial month at the commencement of the Term will be included in the first Lease Year.

1.9. **Extension Terms.** Two (2) Extension Term periods, each of five (5) years, in accordance with Schedule I attached hereto and incorporated herein.

1.10. **Tenant's Permitted Use.** Restaurant use for the purpose of operating a restaurant with up to 27 seats [so as to comply with the conditions of approval wherein the 12 parking spaces shown on the site plan allow 1 space per 3 seats in the restaurant and 1 space per employee on the largest shift], including but not limited to the permits and approvals issued by the Town of



Concord Planning Board and Zoning Board applicable to the Property and the Tenant and Guarantors named herein being the principal on-premises operators of such restaurant and no other use. If properly licensed by the Tenant, and operated in conformance with the requirements of such licensure, and applicable Federal and State Laws and Regulations pertaining to the sale of alcoholic beverages, such restaurant use may also include the on premises sale of beer and wine. The Tenant shall also comply with the following requirements (which shall also be considered incorporated into the Rules and Regulations of the Property):

Only such merchandise shall be warehoused and/or stored in the Premises as is intended to be offered for sale at retail in the Premises;

Tenant shall not use the sidewalks adjacent to the Premises for business purposes, and no seating, merchandise or boxes from or for the Premises will be placed by Tenant in the Common Areas; except as otherwise provided for in this Lease (however, Tenant may install a bench outside of the Premises so long as same does not interfere with the use of the building and common areas by other tenants and so long as same is not prohibited by the Town of Concord or considered to be additional seating for the Tenant's restaurant);

Tenant shall receive and deliver goods and merchandise only in the manner, at such time, and in such areas, as may be reasonably designated by Landlord or stipulated by the Town of Concord, including: Tenant shall comply with the requirements of the Landlord regarding the timing and location of deliveries, trucks shall be prohibited from backing into the parking lot from the public way or backing out of the parking lot into the public way or blocking sidewalks. Deliveries should be performed at off-peak traffic and business hours.

Exterior lighting shall be extinguished no later than 30 minutes after closing.

Parking is not permitted in the no parking areas of Main Street and Cottage Street. Landlord will be required to post "No Parking" signs along Main Street and Cottage Street.

Tenant will procure all licenses and permits which may be required for any use made of the Premises;

Tenant and Tenant's employees and agents shall not solicit business in the Common Area, nor shall Tenant distribute any handbills or other advertising matter on automobiles parked, or to pedestrians, in the Common Areas;

No loudspeakers, televisions, phonographs, radios, public address systems, sound production or reproduction devices, mechanical or moving display devices, motion picture or television devices, excessively bright lights, changing, flashing, flickering or moving lights or lighting devices or any similar advertising media or devices, the effect of which shall be visible or audible from the exterior of the Premises, or other devices



shall be used in a manner so as to be heard or seen outside of the Premises, however this provision shall not prohibit the use of television devices inside the Premises which are indirectly visible from outside the Premises;

The plumbing facilities shall not be used for any other purpose than that for which they were constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant;

Tenant shall not bring upon the Property, including the Premises, any hazardous waste or materials;

Tenant shall not perform any act or carry on any practice which may injure the Premises or any part of the Property, or cause any offensive odors or loud noise (including, but without limitation, the use of loudspeakers), or constitute a nuisance or menace to any other tenant or tenants or other persons in the Property, and in no event shall any noises or odors be emitted from the Premises;

Tenant shall not use any portion of the Premises for any purpose other than for its business operations in the Premises, nor shall Tenant permit any act to be performed or any practice to be adopted or followed in or about the Premises which, in Landlord's commercially reasonable opinion, may detract from or impair the reputation of the Property;

Nothing shall be done upon or about the Premises which shall be unlawful, improper, or contrary to any law, ordinance, regulation or requirement of Landlord's insurance carrier or of any public authority or insurance inspection or rating bureau or similar organization having jurisdiction, or which may adversely affect the quality or tone of the Premises or the Property, and Tenant will promptly comply with any such law, ordinance, regulation or requirement;

The Premises will not be overloaded or damaged;

Tenant will not do, or suffer to be done, or keep, or suffer to be kept, or omit to do anything in, upon or about the Premises which may prevent the obtaining of any type of insurance upon the Premises or any other part of the Property or on any property therein, or which may make void or voidable any such insurance, or which may create any extra premiums for, or increase the rate of, any such insurance; and if anything shall be done or kept or omitted to be done in, upon or about the Premises which shall create any extra premiums for, or increase the rate of, any such insurance, Tenant will pay the increased cost of the same to Landlord upon demand;

Tenant covenants that it will not: (i) display any merchandise or maintain any stands in front of the Premises or on the Common Area in the Property; (ii) erect or maintain any barricade or scaffolding which may obscure the signs, entrances or show window of any



other tenant in the Property, or tend to interfere with such other tenant's business; (iii) create or maintain, or allow others to create or maintain, any nuisances, including, without limitation, loud noises, sound effects, offensive odors and smoke or dust in or about the Premises; (iv) place or maintain any signs in any parking or other Common Areas serving the Premises without prior approval of the Landlord; (v) suffer, permit, or commit any waste with respect to the Premises or any portion thereof; or (vi) maintain or allow to be maintained any excessively bright lights, or any changing, flashing, or flickering lighting or similar devices, the effect of which will be visible from the exterior of the Premises.

1.11. **Base Rent.** With the exception of the first month following the Commencement Date, which shall be a month of free rent, for the first five (5) years, being the initial five (5) year Term, the base rent shall be [REDACTED] Thousand and NO/100 Dollars (\$[REDACTED],000.00) per Lease Year, in advance in monthly installments of [REDACTED] and NO/100 Dollars (\$[REDACTED],000.00).

1.12. **Additional Rent.** Tenant shall be required to pay as "Additional Rent", Tenant's Pro Rata Share in Operating Expenses and Real Estate Taxes applicable to the Property. Upon written notice from Landlord, Tenant will make monthly or quarterly payments of Tenant's Pro Rata Share of Real Estate Tax and/or Operating Expense, based upon Landlord's reasonable estimate of the required amounts. Payments of Additional Rent be paid not later than thirty (30) days from such notice from Landlord. Base Rent and Additional Rent are sometimes referred to collectively as "Rent". Notwithstanding provisions herein to the contrary, for the first (5) years of the Lease (being the initial Term), Tenant's Additional Rent shall not be more than \$500.00 per month exclusive of Tenant's pro rata share of the cost to provide snow plowing and related treatment and removal of snow and ice from the Property. Tenant shall be responsible for snow removal and treatment and outside landscaping maintenance for the premises and shall be allowed to bill each tenant for its pro rata share of the costs of snow removal and treatment and outside landscaping and maintenance for the premises.

1.13. **Guarantors:** Perse B. Tatas, and Konstantinos D. Tatas, adult individuals, both of 255 North Road, Unit 148, Chelmsford, Massachusetts 01824.

1.14. **Omitted**

1.15. **Tenant's Pro Rata Share.** twenty-five percent (25%).

1.16. **Security Deposit.** Waived, but may be reinstated in the event of a Transfer..

1.17. **Landlord's Notice Address.**

Dee's Corner, LLC, 33 Great Road, Shirley, MA 01464

1.18. **Tenant's Notice Address.**

c/o Perse B. Tatas, and Konstantinos D. Tatas,  
255 North Road, Unit 148,  
Chelmsford, Massachusetts 01824



1.19. **Broker.** NONE

1.20. **Required Insurance Amount.** A minimum combined single limit of general liability insurance and Liquor Liability insurance of at least One Million Dollars (\$1,000,000.00) per occurrence and a general aggregate limit (combined primary and excess) of at least One Million Dollars (\$1,000,000.00), plus, fire legal liability insurance in an amount not less than \$500,000.00 per occurrence, provided that, not more often than once every five (5) Lease Years, Landlord may increase such amounts as Landlord reasonably determines to be necessary and appropriate.

1.21. **Rules and Regulations.** Reasonable Rules and Regulations incorporated herein or attached hereto or hereafter promulgated or modified by Landlord with notice to Tenant.

1.22. **Normal Business Hours.** 8:00AM to 11:00 PM Monday through Friday and 8:00AM to 11:00PM on Saturday and Sunday, Federal and State holidays excepted.

1.23. **Landlord's Work.** Landlord shall deliver the Premises with completed interior sheetrock walls with primer only, floors, electricity, heat, air conditioning and provisions for Tenant to connect its equipment and fixtures to water and gas. Tenant will provide the finish ceiling, ceiling lighting and plumbing, electrical and gas plumbing work.

1.24 **Tenant's Work and Tenant Access.** Landlord may, in its reasonable discretion, grant to Tenant, by revocable license, the right to access the Premises prior to the Commencement Date for the purpose of installing wiring and other communication and data facilities, installing fixtures and performing other work required by Tenant to make the Premises ready for Tenant's use and occupancy (collectively "Tenant's Work"). The grant and continued effectiveness of such license shall be subject to such terms and conditions as Landlord deems appropriate, including the following: (a) Prior to such access Tenant shall provide to Landlord, in writing: (i) the names and addresses of all contractors, subcontractors, material suppliers and other persons who will be authorized to enter the Premises in connection with Tenant's Work, (ii) certificates of insurance covering all such persons, in amounts and coverages satisfactory to Landlord, and (iii) copies of any permits, licenses and approvals required for Tenant's Work; (b) All Tenant's Work will be performed in a good and workmanlike manner, in strict compliance with applicable legal requirements; (c) Tenant's Work will be performed with professional skill and judgment appropriate to work in a multi-tenant office building; and (d) Tenant's Work will proceed expeditiously and efficiently, in coordination with Landlord's Work. Failure of Tenant to complete Tenant's Work will in no event delay the Commencement Date. Any license granted hereunder and any access to and activities within the Premises or the Property by Tenant or any person acting for or on behalf of, or admitted through Tenant, shall be deemed to be subject to all of the provisions of the Lease, specifically including the provisions of Section 6 (Alterations to the Premises), Section 11 (Hazardous Materials), Section 12 (Risk of Loss), Section 13 (Insurance) and Section 21 (Limitation on Liability), excluding only the covenant to pay Rent and Additional Rent, but Tenant shall reimburse Landlord for any extra cost incurred by Landlord as a result of Tenant's Work.



2. **LEASE OF PREMISES; QUIET ENJOYMENT:** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, for the Term, at the Rent and upon the other terms, covenants and conditions of this Lease. Upon paying the Rent and observing the other obligations of Tenant hereunder, Tenant may peaceably occupy the Premises during the Term, without disturbance by Landlord or persons claiming through or under Landlord.

3. **PAYMENT OF BASE RENT; INCREASES IN TAXES AND OPERATING EXPENSES:**

3.1. **Payment of Base Rent.** Tenant will pay the Base Rent to Landlord in equal monthly installments in advance, on the first day of each calendar month during the Term, without notice or demand, at Landlord's Notice Address or such other address as Landlord designates by notice to Tenant. Base Rent for any partial month at the beginning of the Term will be determined on a per diem basis at the rate applicable to the first Lease Year, and will be due on the Commencement Date.

3.2. **Real Estate Taxes.** Subject to the provisions of Section 1.12, Tenant will pay to Landlord Tenant's Pro Rata Share of all Real Estate Taxes applicable to the Property. "Real Estate Taxes" means the aggregate of all real estate taxes and any other governmental impositions which Landlord is required to pay based upon the value of or gross rents from the Property, general or special assessments, charges for sewer use or other governmental services, special district fees or taxes, and any other governmental fees and assessments imposed upon the Property, exclusive only of income and franchise taxes, whether or not such Real Estate Taxes exist or apply on the Commencement Date.

3.3. **Operating Expenses.** Subject to the provisions of Section 1.12, Tenant will pay to Landlord (a) Tenant's Pro Rata Share of all Operating Expense applicable to the Property, and (b) the cost of providing Utilities to the Premises as provided by Section 10, below. "Operating Expenses" means all costs and expenses incurred by Landlord in the operation of the Property, including insurance and a reasonable management fee and capital expenses which result in a decrease in related Operating Expenses or are made to comply with legal requirements effective after the date of this Lease, in either case amortized over a period reasonably determined by Landlord, but excluding all other capital expenses, mortgage payments and other financing costs, leasing expenses, and expenses for which Landlord is directly reimbursed by third parties.

3.4. **Estimated Payments.** Upon written notice from Landlord, Tenant will make monthly or quarterly payments of Tenant's Pro Rata Share of Real Estate Tax and/or Operating Expenses, based upon Landlord's reasonable estimate of the required amounts.

3.5. **Year End Adjustments.** As soon as is reasonably practical after the end of each calendar year and tax year, Landlord will provide to Tenant a statement including the actual Operating Expenses or Real Estate Taxes for such year, Tenant's Pro Rata Share of same and any amounts due from Tenant or overpayment by Tenant, after taking into consideration any estimated payments made by Tenant. Tenant will pay any amount due to Landlord within thirty (30) days of receipt of Landlord's statement and Landlord will credit any overpayment against estimated payments of Real Estate Taxes and Operating Expenses next coming due. The obligations of Tenant and Landlord hereunder will survive the expiration or other termination of this Lease.



4. **CONDITION OF PREMISES:** Except for Landlord's Work, if any, Tenant accepts the Premises and the Property "AS IS" and agrees that Landlord is under no obligation to make any repairs, renovations, or alterations to the Premises or the Property, and has made no representations or warranties regarding the fitness of the Premises or the Property for Tenant's intended use or otherwise.

5. **USE OF PREMISES AND COMMON AREAS; ACCESS:** Tenant may use the Premises only for Tenant's Permitted Use, in full compliance with applicable legal requirements and any Rules and Regulations, and will obtain, at Tenant's expense, any required permits, licenses and approvals. Tenant may also use those portions of common areas of the Property reasonably necessary for access to the Premises, as from time to time reasonably designated by Landlord, and any common rest rooms on the floor on which the Premises are located. Landlord reserves the right to make any changes in the common areas which Landlord deems appropriate, provided that such changes do not materially impair Tenant's use of the Premises and that Landlord will provide prior notice to Tenant of any material change in the Common Area that would affect Tenant's access to or use of the Common Area. Tenant may have access to the Premises during Normal Business Hours, and at other times subject to such security requirements and procedures as Landlord may reasonably deem necessary or appropriate. Tenant shall have access, in common with the other tenants of the Property, to a common dumpster in the designated area, and the restrooms and the janitors closet on the first floor of the Common Area. Additionally, Tenant shall have reasonable access to a chimney/vent clean out access area located on the second floor of the building twice a year, with reasonable advance notice to the Landlord so that the Landlord may schedule such access with the applicable second floor tenant. The Tenant shall use the dumpster only for lawful purposes of the Tenant's restaurant and shall not be overloaded, used inappropriately or left without the gate around the dumpster being closed. Tenant will not cause or permit any waste or damage to the Premises or cause, or permit any invitee of Tenant to cause, any waste or damage to the Property, or make any use of the Premises or the Property which, by noise, odor, vibration or otherwise might interfere with the use of the Property by others entitled thereto or lead to an increase in premiums for Landlord's insurance, and will maintain the Premises and the Property free and clear of liens and encumbrances attributable to the acts or omissions of Tenant. Landlord shall have the right to enter the Premises at reasonable times on reasonable notice for the purpose of inspection, for performing Landlord's obligations and to show the Premises to prospective tenants, purchasers and mortgagees. The parking spaces shall not be reserved to any one tenant of the building, but at least two (2) spaces may be used by persons using the canoe ramp.

6. **ALTERATIONS TO THE PREMISES:** Tenant will make no alterations to the Premises, except that Tenant may make interior non-structural alterations with Landlord's prior written consent, which consent Landlord will not unreasonably withhold. Any such alterations will be made in a good and workmanlike manner and in accordance with all applicable legal requirements and any terms and conditions imposed by Landlord.

7. **MAINTENANCE OF THE PREMISES BY TENANT:** Tenant will maintain the Premises, including those portions of the systems of the Property which are located within and serve exclusively the Premises, in the same condition as exists on the Commencement Date or such better condition as the Premises or such systems may be placed in during the Term, in full compliance with all applicable legal requirements, and will replace any damaged glass in the windows and doors of the Premises, provided that Tenant will not be responsible for damage caused by fire or other casualty, for reasonable wear and tear, for structural or other capital repairs or replacements or for repairs or



replacements to any portion of the systems of the Property which do not serve the Premises exclusively, except for alterations and upgrades within the Premises necessary to comply with the requirements of the Americans With Disabilities Act ("ADA") arising from Tenant's use and not included in Landlord's Work. All such repairs will be made in a good and workmanlike manner, satisfactory to Landlord, and in compliance with all applicable legal requirements.

8. **MAINTENANCE OF PROPERTY BY LANDLORD:** Subject to Section 18 below, Landlord will maintain the roof, structural elements, exterior walls, stairways, elevators, if any, common corridors, rest rooms and other common areas to which Tenant has access, and the common systems and equipment of the Property, excluding those portions of such systems which are located within and serve exclusively the Premises, in at least the same condition as on the Commencement Date, and will maintain the interior common areas serving the Premises in a reasonably clean and orderly condition and the exterior walkways and parking areas, if any, serving the Premises, reasonably free of ice and snow except that Tenant shall have the obligation to keep the walkway immediately adjacent to the storefront of the leased Premises reasonably clear of ice and snow.

9. **SURRENDER OF PREMISES BY TENANT:** On the Termination Date, Tenant will vacate and surrender the Premises to Landlord in the same condition (except as hereinafter specifically provided) as Tenant is required to maintain the Premises during the Term, free and clear of Tenant's personal property and broom clean. Tenant will remove all alterations made by Tenant and repair any damage to the Premises resulting from such removal unless Landlord instructs Tenant to leave some or all of such alterations in place, in which event, such alterations will become the property of Landlord without compensation, provided that Tenant will always have the right and obligation to remove its trade fixtures and business equipment. If any of Tenant's property remains within the Property after the Termination Date, it may be retained by Landlord without compensation, or may be removed and either stored or disposed of by Landlord and Tenant will reimburse Landlord upon demand for all expenses incurred in connection therewith.

10. **UTILITIES:** Landlord will furnish to the Premises during Normal Business Hours (a) heat (and air-conditioning if the Property currently provides air-conditioning to the Premises through its central systems), at temperatures reasonably adequate for general office uses, (b) electrical service reasonably adequate for general office uses, and (c) hot and cold water to common lavatories. The cost of heating, air-conditioning, electricity and any other utilities provided to the Property, excluding utilities separately metered or sub-metered to the Premises or to other tenants, will be included in Operating Expenses. Landlord has installed separate gas and electric meters serving the Leased Premises. Landlord may, at any time during the Term, arrange for the installation of a separate water meter or sub-meter for the Premises. All and metered or sub-metered amounts will be paid directly by Tenant within ten (10) days of invoice, to the utility provider, or, if sub-metered, to Landlord, and, having made such payment, Tenant will not be required to pay, as an Operating Expense, its proportionate share of the cost of water incurred at the Property and utilities serving the common area. Landlord will not be liable for any interruption of utility services to the Premises, nor will any such interruption constitute a termination of this Lease or an actual or constructive eviction of Tenant. Landlord will use commercially reasonable efforts to avoid or limit such interruptions to the extent that such interruptions are within Landlord's reasonable power or control and subject to the reasonable operational requirements of the Property.



**11. HAZARDOUS MATERIALS:** Tenant will not cause, or permit any other person claiming or admitted to the Property through Tenant to cause, any Hazardous Materials to be used, generated, stored or disposed of on or about, or transported to or from the Property. "Hazardous Materials" means any material or substance which: (a) is or becomes defined as a "hazardous substance," "hazardous waste," "infectious waste," "chemical mixture or substance," or "air pollutant" under Environmental Laws; (b) contains or derives from petroleum, polychlorinated biphenyls (PCB's) or asbestos; (c) is radioactive or infectious; or (d) has toxic, reactive, ignitable or corrosive characteristics. "Environmental Laws" means all legal requirements relating to or imposing liability or standards of conduct concerning Hazardous Materials, public health and safety or the environment. Notwithstanding the foregoing, normal and reasonable quantities of Hazardous Materials generally and customarily used in connection with Tenant's Permitted Use may be introduced to the Premises provided such Hazardous Materials are stored, used and disposed of in compliance with Environmental Laws and all other applicable legal requirements. This provision will not prevent the Tenant from the lawful use and maintenance of a grease trap serving the Premises, nor the proper use, storage and disposal of reasonable amounts of over-the-counter cleaning products customary used in the restaurant industry with the necessity of licenses or permits.

Tenant will be responsible for and will hold Landlord harmless and indemnified against any claim, damage, cost, liability or penalty related to any Hazardous Materials introduced to or released on or about the Property by Tenant or by any person claiming or admitted to the Property through Tenant, whether or not permitted by the preceding sentence or otherwise approved by Landlord.

**12. RISK OF LOSS; INDEMNIFICATION:** To the maximum extent permitted by law, (a) Tenant agrees that it will occupy the Property at its own risk, and that Landlord will not be liable to Tenant, or to any person claiming or admitted to the Property through Tenant, for injury or death to persons, or loss or damage to property of any nature whatsoever, and (b) Tenant waives and will indemnify Landlord against any claim for personal injury or death or damage to property, including legal fees and expenses, by Tenant or by any person claiming or admitted to the Property through Tenant, while at the Property.

**13. INSURANCE:** Throughout its occupancy, Tenant will maintain in effect, at its sole expense, the following insurance:

**13.1 Liability Insurance.** Commercial general liability insurance and liquor liability insurance and fire legal liability insurance in at least the Required Insurance Amount, for bodily and personal injury and death and property damage, including as additional insureds Landlord, any general partner or other person directly liable for the obligations of Landlord, and any representative or employee of Landlord or any mortgagee of the Property designated by Landlord, such coverage to be primary and not excess or contributing or secondary to any other insurance available to Landlord or the additional insureds.

**13.2 Contents Insurance.** Hazard insurance, covering Tenant's personal property and fixtures within the Premises or the Property.



**13.3 Workers' Compensation Insurance.** Workers' Compensation Insurance in accordance with the applicable legal requirements.

**13.4 Other Insurance.** Such other types of insurance as Landlord may from time to time reasonably deem necessary.

**13.5 General Requirements.** All Tenant insurance will be issued by insurance companies authorized to do insurance business in Massachusetts rated not less than A-VIII in Best's Insurance Guide, and will not be subject to cancellation or modification without thirty (30) days prior written notice to Landlord and to any mortgagee required to be covered. All insurance policies shall name the Landlord as an additional named insured.

**13.6 Waiver of Subrogation.** Each party waives any right of recovery against the other for injury or loss to property due to hazards covered by insurance to the extent of the injury or loss covered. Any policy of insurance obtained by either party and applicable to the Premises or the Property will contain a clause denying the insurer any right of subrogation against the other party.

**13.7 Certificates of Insurance.** Prior to making any entry on the Property and at least thirty (30) days prior to the expiration of any policy, Tenant will provide certificates of insurance, in form and substance satisfactory to Landlord, establishing insurance coverages as required by this Section. Landlord will provide Tenant with proof of insurance for the Common Area.

**14. TRANSFERS:** Tenant will not Transfer this Lease or any interest in this Lease or in the Premises without obtaining the prior written consent of Landlord, which consent may be withheld for good cause related to the business experience, business reputation and/or financial condition of the proposed transferee, or granted upon such conditions as Landlord determines to be in its best interest, including the requirement for a security deposit; but such consent shall not be unreasonably withheld. "Transfer" includes any sale, absolute or collateral assignment, sublet, license or other occupancy arrangement, pledge, or mortgage of this Lease or the Premises and any dissolution, merger or transfer of a controlling interest in or other power to control, directly or indirectly, any legal entity which is a Tenant, whether any of the foregoing are voluntary, involuntary or by action of law. Any Transfer, without such written consent or not otherwise permitted, shall be void. No Transfer whether or not approved or permitted, and no indulgence granted by Landlord to any assignee or sublessee, shall in any way impair the continuing primary liability (which after an Transfer shall be joint and several with the transferee) of Tenant hereunder for amounts due under the Lease during the first year following the effective date of the Transfer, and no approval in a particular instance shall be deemed to be a waiver of the obligation to obtain Landlord's approval in the case of any other Transfer.

**15. RELATION OF LEASE TO MORTGAGES:** This Lease will be subordinate to all mortgages on the Property, now outstanding or hereafter granted, provided that the record holder of a first mortgage on the Property (a "First Mortgagee") may elect to place this Lease ahead of the lien of its mortgage (and of other mortgages on the Property, if it so elects) and may thereafter change such election, effective as of the recording of a written notice of such election with the Registry of Deeds for the district in which the Property is located, with a copy of such notice to Tenant. If a mortgage on the Property is foreclosed, the foreclosing mortgagee or the purchaser at a foreclosure sale (in either case, "First Successor Landlord"), may, at its option, require that Tenant attorn to such party as the



Landlord hereunder and continue to be bound by the terms and conditions of this Lease for the balance of the Term. Neither the First Successor Landlord nor any successor or assign of a First Successor Landlord will be (a) liable for any act or omission of or subject to any offsets or defenses which Tenant might have against any Landlord prior to the First Successor Landlord (a "Prior Landlord"), (b) liable for the return of any security deposit not actually paid over to the First Successor Landlord, (c) bound by any payments which Tenant has paid to a Prior Landlord other than for monthly installments next due, (d) obliged to make any payment to Tenant which was required to be made prior to the time the First Successor Landlord took title, or (e) obliged to perform any work or to make any improvements to the Premises undertaken by a Prior Landlord. A First Mortgagee which gives notice of its address to Tenant will be entitled to receive a simultaneous copy of any notice of default by Tenant to Landlord and will have an additional thirty (30) days beyond any cure period available to Landlord, within which to cure such default (and such additional time as may reasonably be necessary, provided that such First Mortgagee is pursuing such cure with commercially reasonable diligence), and unless such additional time expires without cure, Tenant will have no right to terminate this Lease on account of Landlord's default. Any amendment or cancellation of this Lease or surrender of the Premises made without the prior written consent of the First Mortgagee will be void and of no force and effect.

## 16. TENANT DEFAULTS:

**16.1 Events of Defaults.** Each of the following will constitute a material default by Tenant (a "Tenant Default"): (a) Failure by Tenant to make any payment required under this Lease within ten (10) days of the date such payment is due, (b) Failure by Tenant to maintain insurance and to provide certificates as required by this Lease, (c) Insolvency or admission of insolvency by Tenant, the filing by or against Tenant of any bankruptcy, receivership or other proceeding under State or Federal law, or entering into or acquiescence by Tenant to any arrangement affecting the rights of Tenant's creditors generally, or attachment, execution or other seizure of substantially all of Tenant's assets located at the Premises or Tenant's interest in this Lease or the Premises, or (d) Failure by Tenant to fulfill any other obligation under this Lease, if such failure is not cured within twenty (20) days of notice from Landlord to Tenant, or such longer period as may reasonably be necessary, not to exceed a total of forty (40) days, if Tenant promptly commences and diligently pursues such cure.

**16.2 Termination by Notice.** If a Tenant Default occurs, in addition to any other rights or remedies, Landlord will have the right to terminate this Lease and recover possession of the Premises by written notice to Tenant, effective on the date specified in such notice or, if no date is specified, on the date of receipt or first properly attempted delivery of such notice.

**16.3 Landlord's Remedies.** In addition to any other rights or remedies, if Landlord terminates this Lease for a Tenant Default, Landlord will have the right to recover as damages from Tenant: (a) any amounts owing from Tenant to Landlord at the time of termination, (b) all of Landlord's expenses, including reasonable legal fees, incurred in recovering possession of the Premises and in proving and collecting the sums due from Tenant hereunder, (c) the full amount of all payments required from the Tenant under this Lease for the balance of the Term, including Base Rent, and reasonably anticipated Real Estate Tax and Operating Expense for the balance of the Term, determined as of the date of such termination, adjusted to its present value at a reasonable discount rate, and (d) the actual or reasonably anticipated expense to Landlord of preparing and reletting the



Premises. Landlord shall also have the right to enter the Premises and to perform any obligation as to which a Tenant Default has arisen, without being deemed to have cured such Tenant Default and without liability to Tenant, and Tenant shall reimburse Landlord for any cost and expense thus incurred promptly upon demand as Additional Rent and/or damages hereunder. In lieu of the damages recoverable under clause (c) above, Landlord may, at its option, give to Tenant a notice that all Base Rent, Additional Rent and any other payment obligation of Tenant which would be payable under this Lease due for the remaining Term of the Lease shall be accelerated and due and payable from the Tenant on the termination date, subject to Landlord's duty to mitigate its damages. If Landlord is required to mitigate damages, Landlord will not be required to give priority to the Premises in renting, or to rent on terms or to any person not otherwise acceptable to Landlord.

**16.4. Security Deposit.** Waived except in the event of a Transfer: Landlord may apply the Security Deposit to remedy any Tenant Default and/or to compensate Landlord for any damages which Landlord suffers as a result of such Tenant Default, without being deemed to have cured such Tenant Default or waived further damages in connection therewith. Immediately upon demand, Tenant will deposit cash with Landlord in an amount equal to any portion of the Security Deposit applied by Landlord as aforesaid. Landlord will not be required to keep the Security Deposit separate from its general accounts and Tenant will not be entitled to interest on the Security Deposit. Within thirty (30) days after the Termination Date and vacation of the Premises by Tenant in accordance with the terms of this Lease, the Security Deposit, or such part as remains after application of this Section, will be returned to Tenant.]

## **17. LANDLORD DEFAULTS:**

**17.1 Events of Default.** Failure by Landlord to observe any of its obligations under this Lease, or a breach of any warranty or representation by Landlord, will constitute a default (a "Landlord Default") only if such failure continues for a period of thirty (30) days (and such additional time as may be reasonably necessary for Landlord to remedy such failure) after Landlord receives notice of such failure from Tenant, setting forth in reasonable detail the nature and extent of Landlord's failure and identifying the provisions of this Lease alleged to have been violated.

**17.2 Tenant's Remedies.** If a Landlord Default occurs and such Landlord Default directly affects and materially impairs Tenant's use and enjoyment of the Premises for the Permitted Uses, Tenant may make such repairs within the Premises and in common areas adjacent to the Premises necessary to restore Tenant's use, and Landlord will reimburse Tenant for the reasonable and necessary third party costs thus incurred by Tenant upon receipt from Tenant of a statement of such costs in reasonable detail and such backup materials as Landlord may reasonably request. If Landlord fails to reimburse Tenant as aforesaid within sixty (60) days of receipt by Landlord of such statement and backup materials, Tenant may offset such amounts against the installments of Base Rent and Additional Rent next coming due. Except as aforesaid, Tenant will have no right of self-help, or any right to withhold, set-off, or abate Rent. In no event will Landlord be liable for punitive damages, lost profits, business interruption, speculative, consequential or other such damages.

**17.3 Independent Covenants.** Except as specifically provided herein, the obligations of Tenant under this Lease, including the obligation to pay Base Rent and Additional Rent, and the obligations of Landlord, are independent and not mutually dependent covenants and the failure of



Landlord to perform any obligation hereunder will not justify or empower Tenant to withhold Rent, except as provided in the preceding Section 17.2, or to terminate this Lease unless the Landlord Default constitutes a constructive eviction.

18. **Casualty or Taking:** If the Property is destroyed by fire or other casualty or the Property or the Premises is taken in its entirety by eminent domain or conveyed in its entirety by deed in lieu of taking, this Lease will terminate as of the date of the casualty or the date that possession of the Property is surrendered to the taking authority, as applicable. In the event that (a) the Property or the Premises is substantially damaged by fire or other casualty and Landlord determines that the Property and/or the Premises cannot be restored to substantially its condition as existing prior to such casualty within one hundred eighty (180) days of the casualty, or (b) a material portion of the Property or of the Premises is taken by eminent domain or conveyed by deed in lieu of taking, and Landlord determines that the remaining portion of Premises and/or of the Property cannot be restored to a condition which is legal and suitable for Tenant's Permitted Use within one hundred eighty (180) days of the date that possession of the Property is required to be surrendered to the taking authority, as applicable, Landlord may elect to terminate this Lease by notice to Tenant given within sixty (60) days after the casualty or notice of taking, effective as of the date of Landlord's notice or, with respect to a taking, on the date that possession is surrendered to the taking authority.

If Landlord does not terminate in accordance with the foregoing, Landlord will restore the Property and the Premises (not including fixtures, modifications and additions installed or required to be installed by Tenant), as soon thereafter as is reasonably practical in light of the circumstances then prevailing, including the time required to collect insurance proceeds and to obtain any governmental approvals required for restoration, and subject to any other matters beyond the reasonable control of Landlord, and the Rent will be abated, in part or in whole, based on the proportion of the Premises rendered unusable, until the earlier of the time at which Landlord has substantially completed its restoration or the date on which Tenant resumes use of the damaged portion of the Premises, provided that, in no event will Landlord be required to expend more for restoration of the Property or the Premises than the net amount of insurance or taking proceeds actually available to Landlord for such purposes. If restoration of the Premises is not substantially completed within the aforesaid one hundred eighty (180) day period, Tenant may elect to terminate this Lease on thirty (30) days' written notice to Landlord, effective on the thirtieth (30<sup>th</sup>) day after such notice if substantial completion of restoration does not occur within such thirty day period.

If a dispute arises between Landlord and Tenant regarding the subject matter of this Section 18, such dispute shall be resolved by binding arbitration by a single arbitrator through REBA Dispute Resolution, Inc. under its Arbitration Guidelines in effect at the time of such arbitration.

19. **NOTICES:**

All notices under this Lease will be in writing and will be given: (a) by hand, with written acknowledgement of receipt, (b) by Federal Express, Express Mail or other nationally recognized overnight delivery service which provides verification of delivery, charges prepaid, or (c) by United States certified mail, postage prepaid, return receipt requested, in each case addressed to Landlord or



Tenant at the Notice Address set forth in Section 1. Either party may change their Notice Address by notice given in accordance herewith.

**20. BROKERS:**

Tenant represents that Tenant has dealt with no broker in connection with this Lease and agrees to hold Landlord harmless and indemnified from all claims for brokerage due to any person with whom such Tenant has dealt in breach of such representation.

**21. LIMITATION ON LIABILITY:**

The recourse of Tenant against Landlord for any claim related to this Lease will extend only to Landlord's interest in the Property and the uncollected rents and profits therefrom. No personal liability for any such claim will be enforceable against Landlord or persons related to Landlord or against any other property. In the event of a transfer of Landlord's interest in the Property, the transferring Landlord will be automatically released from all liability related to this Lease accruing after such transfer.

**22. MISCELLANEOUS PROVISIONS:**

**22.1 Amendments and Waivers.** This Lease may not be amended except by a writing, duly executed by both parties and approved in writing by any First Mortgagee having approval rights, and no waiver or consent will be effective unless in writing and signed by Landlord. A waiver or consent by Landlord hereunder will apply only to the specific instance in which granted and not to any other instance, however similar.

**22.2 Interpretation.** Both parties acknowledge that they have fully read and understood this Lease and have had the opportunity to consult counsel to the extent they deemed necessary, and no provision of this Lease will be construed in favor or against either party by virtue of such party being the drafter of such provision. Enumeration of some but not all items of a class should not be construed as excluding others, notwithstanding the absence of the phrase "without limitation" or words of like meaning.

**22.3 Invalid Provisions.** If any provision of this Lease is finally determined by a court of competent jurisdiction to be in violation of law or otherwise invalid, this Lease will be deemed amended to the limited extent necessary to cure such violation or invalidity and will be interpreted, as thus amended, so as to implement the intentions of the parties to the greatest extent possible.

**22.4 Time of the Essence; Force Majeure.** Time is of the essence as to all rights and obligations of the parties hereunder unless specifically provided to the contrary. Notwithstanding the foregoing, if either party fails to perform an obligation hereunder, other than the obligation of Tenant to pay Rent and Additional Rent when due, which failure results from causes beyond the reasonable control of such party, including, without limitation, labor problems, contractor disputes, legal requirements, unavailability of equipment, fixtures or materials, casualty, or disruption or unavailability of utilities or services (a "Force Majeure Event"), the amount of time for performance of



such obligation shall be extended by the amount of time such performance is delayed by reason of such Force Majeure Event.

**22.5 Jurisdiction; Governing Laws; No Counterclaim.** Any action by Tenant against Landlord will be instituted in the state courts of Massachusetts under Massachusetts law, and Landlord will have personal jurisdiction over Tenant for any action brought by Landlord in Massachusetts by service to Tenant's Notice Address. If Landlord commences any summary proceeding for possession, Tenant will not interpose any counterclaim which is not mandatory or attempt to consolidate such proceeding with another proceeding which includes a claim or counterclaim against Landlord.

**22.6 Successors and Assigns.** Subject to the provisions of Section 21 above, the benefits and burdens of this Lease will extend to the original Landlord and Tenant and to their respective successors and assigns, who will be included within the terms "Landlord" and "Tenant" as used herein, provided that no transferee from Tenant in violation of the provisions of this Lease will be entitled to any of the rights or benefits of a Tenant hereunder.

**22.7 Estoppel Certificates.** Each of the parties, within fifteen (15) days of written request from the other, shall provide a certificate identifying this Lease and any amendments hereto, setting forth the amount of the then current monthly installment of Base Rent and of any Security Deposit held hereunder, stating whether this Lease remains in effect, whether there are any defaults by Landlord or Tenant, whether any Rent has been paid more than thirty (30) days in advance, whether Tenant is in possession and paying Rent, whether Tenant claims any off-sets or credits or has any other defenses to the payment of Rent hereunder, and containing such other reasonable and customary information as may be requested.

**22.8 Guarantors:** Concurrently herewith, Tenant has delivered to Landlord two (2) personal guarantees duly executed by Tenant's principals, Perse B. Tatas and Konstantinos D. Tatas, substantially in the form as provided on Exhibit B, pursuant to which each guarantor shall individually guarantee payment of all of the monetary obligations of Tenant hereunder.

**22.9 Entire Agreement.** This Lease contains the entire agreement of the parties respecting the Premises and the Property and there are no other agreements or understandings between the parties regarding the subject matter of this Lease, any prior agreements being merged herein and superseded.

*(Signatures on next page.)*

REBA Form No 38



© Real Estate Bar Association for Massachusetts  
(11-07-06)

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

**LANDLORD**  
**DEE'S CORNER, LLC**

  
\_\_\_\_\_  
George Dee, Manager

**TENANT**  
**NTINOS PHASE II, INC**

  
\_\_\_\_\_  
Perse B. Tatas, President



## EXHIBIT B

### GUARANTY OF LEASE

1. ACCOMMODATION. For valuable consideration, the receipt of which by the undersigned is hereby acknowledged, and as an inducement to DEE'S CORNER, LLC, a Massachusetts Limited Liability Company of 33 Great Road, Shirley, MA, ("Landlord") to enter into a certain Consent to Assignment and Amendment to Lease this day by and between NTINO'S PHASE II, INC., a duly organized and existing Massachusetts corporation with a mailing address of 255 North Road, Unit 148, Chelmsford, MA 01824 ("Assignor") and Dino's GMAA, LLC a duly organized and existing Massachusetts Limited Liability Company with an address of 175 Littleton Road, Unit B19, Chelmsford, MA 01824 ("Tenant") wherein Tenant shall become the Tenant within that certain Lease agreement dated April 21, 2011 between NTINO's Phase II, Inc., as Tenant, and Dee's Corner, LLC, as affected by that certain Assignment and Assumption of Lease between Assignor and Tenant herein as Assignee, (collectively hereinafter the "Lease") and to extend accommodation for the account or for the benefit of Tenant, or in respect of which the Tenant may be liable in any capacity to Landlord, the undersigned (if more than one, jointly and severally) hereby unconditionally guarantee(s) to the Landlord irrespective of the validity, regularity, or enforceability of any instrument, writing, or arrangement relating to any such accommodation or of the obligations thereunder, and irrespective of any present or future law or order of any government (whether of right or in fact) or of any agency thereof purporting to reduce, amend, or otherwise affect any obligation of the Tenant or to vary the terms of payment the complete and full performance of each and every agreement, covenant, term, and condition of the Lease to be performed by Tenant including, without limitation, the timely payment of all sums of money to be payable by Tenant as such Lease may be amended in writing from time to time by Landlord and Tenant, expressly including all renewal option periods, if any (hereinafter collectively referred to as the "Obligations") and that the timely and prompt performance and observation of every and any agreement and condition of the obligations to be performed or observed by the Tenant, the payment of all sums stated to be payable in, or which becomes payable under, the obligations, and all other sums which may be owing by the Tenant to the Landlord now or hereafter on account of the obligations, and that said sums will be promptly paid in full when due, whether at maturity or earlier by reason of acceleration or otherwise, or, if now due, when payment thereof shall be demanded by the Landlord together with interest and any and all legal and other costs and expenses paid or incurred in connection therewith by the Landlord as more particularly stated in the Lease to be paid by Tenant. This guarantee shall be continuing and shall not be in any manner impaired, modified or affected by any renewal, extension, waiver or partial waiver, release or partial release,

modification, amendment, or abandonment of the Lease, or any release or modification of this guarantee as to any undersigned if more than one. The undersigned hereby expressly waive(s) notice in writing, or otherwise, from the Lessor of its acceptance or reliance on this guarantee. This guarantee shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned; and the death of the undersigned shall not relieve his or her estate from any liability or obligation which may arise hereunder until this guarantee is paid in full and shall not relieve his or her estate from any liability or obligation which may arise hereunder until this guarantee is paid in full.

2. **NON-WAIVER.** The undersigned hereby consents that from time to time, without notice to or consent of the undersigned, the performance or observance by the Tenant of any of said agreements or conditions may be waived or the time of performance thereof extended by the Landlord, and payment of any of the Obligations hereby guaranteed may be accelerated in accordance with any agreement between the Landlord and any party liable with respect thereto, or may be extended, or the accommodation may be renewed in whole or in part, all without affecting the liability of the undersigned hereunder. This guarantee specifically covers and includes all such additional or greater obligation of the Tenant as may be effected through future written amendments to the Lease with or without the permission of or noticed to the undersigned. The undersigned hereby waive(s) any and all demand of payment and notice of non-payment. The undersigned agree(s) that whenever, at any time or from time to time, it shall make any payment to the Landlord hereunder on account of the liability of the undersigned hereunder, the undersigned will notify the Landlord in writing that such payment is made under the guaranty for such purpose. No payment by the undersigned pursuant to any provision hereof shall entitle the undersigned, by subrogation to the rights of the Landlord or to any payment by the Tenant or out of the property of the Tenant, except after payment in full of all sums (including said costs, expenses, and interest and attorneys' fees) which may be or become payable by the Tenant to the Landlord at any time or from time to time

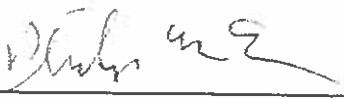
3. **RELEASE.** This guaranty shall continue in full force and be binding upon the undersigned and the estate (or, if more than one, the estates) of the undersigned, notwithstanding the death of any of the undersigned or any guarantor, or any other party liable upon or in respect of any obligation hereby guaranteed; any one or more of the undersigned (if more than one), or any other party liable upon or in respect of any obligation hereby guaranteed, may be released without affecting the liability of any of the undersigned not so released.

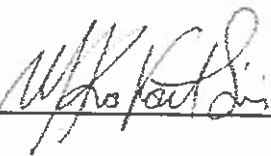
4. **ASSIGNMENT.** The Landlord may assign this instrument, or any of its rights and powers hereunder, with all or any of the obligations hereby guaranteed, and, in the event of such assignment, the assignee hereof, or of such rights and powers assigned and/or delivered, shall have the same rights, obligations, and liabilities arising hereunder.

Witness my hand this 3<sup>rd</sup> day of April, 2016

**WITNESS:**

**GUARANTOR:**

  
\_\_\_\_\_

  
\_\_\_\_\_

**Maria Kakoutsis**

**Residential Address:**

175 Littleton Rd. Unit B19  
Chelmsford MA 01824

EXHIBIT C  
Schedule 1

Option To Extend

As amended by the Consent to Assignment and Amendment to Lease

1. **OPTION.** Tenant shall have the right to extend the Term (an “Option to Extend”) for the Extension Term or Terms, if any, specified in Section 1 of the Lease as Amended by Section 4 .A. of the Consent to Assignment and Amendment to Lease, commencing on the day following the Termination Date, as most recently extended by the valid exercise of a prior Option to Extend. An Option to Extend shall be effectively exercised only if (a) Tenant gives notice of exercise to Landlord not less than 180 days prior to the Termination Date, and (b) there are no Tenant Defaults outstanding on either the date of exercise or the first day of the Extension Term.

2. **TERMS AND CONDITIONS DURING EXTENSION TERM.** An Extension Term shall be on the terms and conditions of this Lease, as most recently amended and as existing on the Termination Date, provided that the number of Extension Terms available to Tenant shall be reduced by one for each Option to Extend that is exercised and the Base Rent shall be the adjusted as follows:

The parties agree that the Base Rent for the First Five Year Extension (which began in 2016) is \$41,589.00 per year. The discount created by the reduction in Base Rent described in Section 4.B of the Consent to Assignment and Amendment to Lease shall not otherwise apply to the calculation of Base Rent for purposes of this Schedule 1.

Effective on the first day of year 11, which is the first Lease Year of the Second Five Year Extension (years 11 through 15), the Base Rent for every year of the Second Five Year Extension Term will be adjusted as follows: Tenant agrees that in the event that the “Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average published by the Bureau of Labor Statistics of the U.S. Department of Labor” (“CPI”) for the calendar years 2016, 2017, 2018, 2019 and/or 2020 (“2016-2020”) increases over the CPI of the year ending December 31, 2015 (“New Base Year”), the Rent for the first year of the Second Five Year Extension will be calculated by multiplying the Base Rent for the First Five Year Extension Term (stated above), by said cumulative annual percentage increase of the CPI for 2016-2020 and the resultant figure shall be fixed as be the new Base Rent for all five (5) years of the Second Five Year Extension (years 11 through 15) and payable in equal monthly installments in advance. Notwithstanding the foregoing, the Rent will never decrease from year to year.

Effective on the first day of year 16, which is the first Lease Year of the Third Five Year Extension (years 16 through 21), the Base Rent for every year of the Third Five Year Extension Term will be adjusted as follows: Tenant agrees that in the event that the “Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average published by the Bureau of Labor Statistics of the U.S. Department of Labor” (“CPI”) for the calendar years 2021, 2022, 2023, 2025 and/or 2026 (“2021-2026”) increases over the CPI of the year ending December 31, 2020 (“2<sup>nd</sup> New Base Year”), the Rent for the first year of the Third Five Year Extension will be calculated by multiplying the Base Rent for the Second Five Year Extension Term (calculated above), by said cumulative annual percentage increase of the CPI for 2021-2026 and the

resultant figure shall be fixed as be the new Base Rent for all five (5) years of the Third Five Year Extension (years 16 through 20) and payable in equal monthly installments in advance. Notwithstanding the foregoing, the Rent will never decrease from year to year.

Effective on the first day of year 21, which is the first Lease Year of the Fourth Five Year Extension (years 22 through 26), the Base Rent for every year of the Fourth Five Year Extension Term will be adjusted as follows: Tenant agrees that in the event that the "Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average published by the Bureau of Labor Statistics of the U.S. Department of Labor" ("CPI") for the calendar years 2027, 2028, 2029, 2030 and/or 2031 ("2027-2031") increases over the CPI of the year ending December 31, 2025 ("3<sup>rd</sup> New Base Year"), the Rent for the first year of the Fourth Five Year Extension will be calculated by multiplying the Base Rent for the Third Five Year Extension Term (calculated above), by said cumulative annual percentage increase of the CPI for 2027-2031 and the resultant figure shall be fixed as be the new Base Rent for all five (5) years of the Fourth Five Year Extension (years 21 through 25) and payable in equal monthly installments in advance. Notwithstanding the foregoing, the Rent will never decrease from year to year.



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Charles D. Baker  
GOVERNOR

Karyn E. Polito  
L.T. GOVERNOR



387538844

Rosalin Acosta  
SECRETARY

Richard A. Jeffers  
DIRECTOR

DINO'S GMMA, LLC  
1135 Main St  
Concord, MA 01742-3021

EAN: 22081878  
February 10, 2022

Certificate Id:56164

The Department of Unemployment Assistance certifies that as of 2/10/2022 ,DINO'S GMMA, LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c.149,§189.

This certificate expires in 30 days from the date of issuance.

Richard A. Jeffers, Director

Department of Unemployment Assistance



Mass.gov



MassTaxConnect



< **Registration Options**

## New Business Registration - Confirmation

- **Confirmation Number:** 1-312-658-624
- **Submitted Date and Time:** 1/6/2022 8:01:21 PM
- **Legal Name:** RK EARTH CORP
- **Username:** Dinos2022
- **PIN:** 1982

Your registration has been submitted successfully. You will receive a confirmation email shortly. Upon approval, you will be informed via the email address you supplied.

If you are having problems receiving emails from the Department of Revenue, check your Spam (or Junk) folder for the missing emails. Also add the following email address to your email client's "Safe Senders" list:

**MTCNoReply@dor.state.ma.us**

Doing this will allow you to receive future account activation, information, messages and alerts. If you are unable to change your Spam settings, please contact the support person/group within your organization or your email provider.

Please print this page and save the confirmation number above for your records.

### Contact Us

If you need further assistance, please contact the Department of Revenue at (617) 887-6367 or toll-free in Massachusetts at (800) 392-6089. Business hours are Monday through Friday, 9:00 a.m. to 4:00 p.m.



**EXHIBIT 1.03-A**

**RK EARTH CORP, Debtor**  
\_\_\_\_\_, Secured Party  
Concord, MA 01475

**All Asset Security and Pledge Agreement**

1. Creation of Security Interest - The undersigned Debtor grants to the undersigned Secured Party to secure Debtor's obligations as Borrower to make all payments to the Secured Party as Holder pursuant to the Purchase Money Promissory Note executed this date, an all asset security interest in the following assets located at 1135 Main St., Concord MA used in connection with the operation of "Dino's Kouzina Pizzeria" or wherever else that same may be located:
  - a. all equipment, furniture and fixtures used in the conduct of the business,
  - b. all equipment, furniture and fixtures acquired by the Debtor after this date,
  - c. all replacements and substitutes for and proceeds of all the assets listed above,
  - d. all inventory now owned or acquired by the Debtor after this date,
  - e. all supplies now owned or acquired by the Debtor after this date,
  - f. all trade names of the Debtor,
  - g. all intangible assets, including accounts and accounts receivable of the Debtor,
  - h. all customer lists of the Debtor,
  - i. Liquor license issued by the Commonwealth of Massachusetts to \_\_\_\_\_ and
  - j. all good will of the Debtor.

All of the above are referred to as the "Collateral".

2. Purpose for Security Interest - This security interest is granted to secure Debtor's obligations as Borrower to Secured Party as Holder under a certain Promissory Note signed this day between the parties hereto ("Promissory Note") as part of the Asset Purchase Agreement executed this date concerning the sale of all of the Secured Party assets in that certain restaurant business located at 1135 Main St., in Concord, known as "Dino's Kouzina Pizzeria."
3. Warranties - The Debtor warrants that:
  - a. The Collateral shall be kept at the address of the Debtor specified above, and such location shall not be changed without prior written consent of the Secured Party, except for purposes of repairing the Collateral and selling inventory in the ordinary course of business.
  - b. Debtor shall at all times keep the Collateral insured against fire and theft in an amount not less than the balance due on the Note or such lesser amount which is the maximum amount for which the Collateral can be insured.

- c. Debtor shall at all times keep the Collateral free and clear of all liens, taxes and assessments and shall pay when due, all taxes and assessments relating to the Collateral.
  - d. Debtor shall keep the Collateral in good repair, reasonable wear and tear excepted.
  - e. Debtor shall at all times comply with Debtor's obligations as lessee pursuant to the lease of the premises in which the business of the Debtor is located.
  - f. Debtor hereby covenants that so long as the indebtedness evidenced hereby is outstanding, Debtor will not mortgage, pledge, encumber, grant a security interest in or assign or transfer by way of security any of his property, real or personal, tangible or intangible unless the indebtedness evidenced hereby is rateably secured by such mortgage, pledge, encumbrance, security interest, assignment or transfer.
4. Default - The Debtor shall be in default under this Agreement upon the occurrence or happening of any one or more of the following events:
- a. In the event of default in whole or in part in the payment of any amounts due under the Note of even date which default continues for ten (10) days after written notice thereof from Holder or failure to perform any of the terms, conditions, agreements, covenants, representations and warranties set forth in the Promissory Note including, without limitation, the failure to pay all principal, interest payments, attorney fees and late fees when due;
  - b. Breach of any of the warranties contained in Paragraph 3, above;
  - c. Dissolution, insolvency, appointment of a receiver of any part of the property of, assignment for the benefit of creditors or the commencement of any bankruptcy or insolvency laws by or against Debtor.
  - d. A breach by Debtor of any of the terms, conditions, covenants, agreements, representations and warranties set forth in this Agreement or the Purchase Agreement
5. Remedies on Default -
- a. Upon any default of the Debtor, at the option of the Secured Party, the obligations secured by this agreement shall become due and payable in full thirty days after notice to the Debtor from the Secured Party or at such earlier date as is provided in the Promissory Note. The Secured Party shall have all rights with respect to the Collateral and disposition of the proceeds as are accorded to a Secured Party by the applicable sections of the Uniform Commercial Code.
  - b. Remedies In Case of Event of Default. If an Event of Default occurs, Secured Party shall be entitled to exercise all of the rights, powers and remedies vested in it by this Agreement, and now or hereafter existing at law or in equity, or by statute or otherwise, for the protection and enforcement of its rights with respect to the Collateral, be entitled, without limitation.
  - c. Upon any default, the Secured Party's reasonable expenses for taking, storing and selling the Collateral and reasonable attorney's fees shall be chargeable to and paid by the Debtor.

EXECUTED UNDER SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Debtor RK EARTH CORP

\_\_\_\_\_  
Witness to signature

By: \_\_\_\_\_  
Rafael Klipp Borges, President and Treasurer  
Duly Authorized

\_\_\_\_\_  
Witness to signature

By: \_\_\_\_\_  
Rafael Klipp Borges, Individually as Debtor

SECURED PARTY:

\_\_\_\_\_  
Witness to signature

By: \_\_\_\_\_  
Maria Kakoutsis  
Duly Authorized

**Schedule 1.01(a)(i)**

**Equipment List**

**Schedule 1.01(a)(iii)**

**Contracts**

**Schedule 1.09**

**Purchase Price Allocation**

The Purchase Price shall be allocated among the Subject Assets as follows, and the Buyer and Seller further agree that such allocation is based upon the respective fair market values of the Subject Assets and is an appropriate allocation:

Equipment

Inventory

All of Seller's goodwill with respect to the  
Business

---

Total



Buyer and Seller further agree that they will cooperate in completing and filing Internal Revenue Service Forms 8594 and that the allocation of the respective purchase prices reflected on such form shall be as set forth above.

**Schedule 2.08**

**Lease**

**(attach copy)**

**EXHIBIT A**

**Form of Bill of Sale**

**BILL OF SALE**

In consideration of \$1.00 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, DINO'S GMAA, LLC, does hereby sell and convey to RK EARTH CORP, all its right, title and interest to equipment, trade fixtures, inventory and supplies located at 1135 Main St. Concord, MA 01742.

To have and to hold all and singular the above referenced assets to the grantee, and its successors and assigns to its own use.

And the Seller hereby covenants with the grantee that it is the lawful owner of the said above referenced assets; that they are free from all encumbrances; that it has good right to sell the same as aforesaid; and that it will warrant and defend the same against the lawful claims and demands of all persons.

Executed this \_\_\_ day of \_\_\_\_\_, 2022

DINO'S GMAA, LLC, Seller

By \_\_\_\_\_  
Maria Kakoutsis, Member,  
Duly Authorized

EXHIBIT 1.03

**PURCHASE MONEY**  
**PROMISSORY NOTE**

[REDACTED], 2022

For value received, the sufficiency of which is hereby irrevocably acknowledged, Rafael Klipp Borges, individual residing at \_\_\_\_\_ and \_\_\_\_\_, a Massachusetts \_\_\_\_\_ and RK EARTH CORP with a principal place of business at 1135 Main St., Concord, MA 01742 (jointly referred to as "Borrower"), jointly and severally, promise to pay to the order of Maria Kakoutsis, having an address of 130 Turnpike Road, Unit 1, Chelmsford, MA 01824 and Grigorios Paraschos, having an address of \_\_\_\_\_ (jointly referred to as "Holder"), the sum of [REDACTED] Dollars with interest at rate of one and 67/100 percent (1.67% ) per annum on the unpaid principal, amortized over four (4) years, on all unpaid balances, payable in forty-eight (48) consecutive monthly of principal only payments of \$5,000, commencing on the \_\_\_\_ day of each month beginning on \_\_\_\_\_, 2022, and continuing thereafter until said principal and interest have been paid in full no later than \_\_\_\_\_, 2026. Said payments shall be made by two separate checks, one to Maria Kakoutsis in the amount of \$2,500 and one payable to Grigorios Paraschos in the amount of \$2,500. Interest will accrue until the end of this note and assuming that Buyer has made timely payments of principal as set forth above, said interest shall be forgiven.

In the event of default in whole or in part in the payment of this Note continuing for ten (10) days after written notice thereof from Holder, or if the Borrower or either of them shall make or suffer (a) an assignment for the benefit of creditors, or (b) a receivership of assets not dissolved within sixty (60) days; or (c) the filing of a petition in bankruptcy of the institution of any other proceedings under any federal or state law relating to bankruptcy, bankruptcy reorganization, insolvency or relief of debtors, which petition of proceedings is not dismissed within sixty (60) days from the date on which it is filed or instituted; then Holder shall be entitled to exercise any and all remedies available at law, equity, or both with respect thereto, and, in addition thereto and not in substitution thereof, accelerate the schedule and date for payment of the entire balance of the principal sum and accrued or accruing interest payable with respect thereto by written demand delivered by U.S. mail to Borrower, and said indebtedness shall then be and become immediately, due and payable with interest at a default rate of ten percent (10%) per annum on the unpaid balance thereof as it appears from time to time until it be fully paid and satisfied.

Each and every party liable hereon expressly (1) waives presentment, demand, protest and notices of every kind and description and waives defense of every nature thereon; (2) waives any defenses based upon, and specifically assents to, any and all extensions and postponements of the time of payment and all other indulgences, forbearances or other agreements which may be granted by the holder to any party liable thereon; (3) agrees to the addition or release of any other party or person primarily or secondarily liable; (4) agrees to be bound by all the terms contained in this Promissory Note; and (5) agrees that, in the event of default, the Borrower shall pay all reasonable costs and expenses of collection, including reasonable attorney's fees. If after any default, the Holder shall place this note with an attorney for collection, the undersigned agrees to pay any and all costs and expenses of such collection action and any and all reasonable attorney's fees incurred in connection therewith.

No delay or omission on the part of the Holder in exercising any right hereunder shall operate as a waiver of such right or any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any right on any future occasion.

This Note shall be binding upon the parties herein and their respective successors and permitted assigns, if any. The liability of Borrowers shall be joint and several and no waiver, forbearance or release as to anyone of them shall constitute a waiver, forbearance or release of the other.

This Promissory Note is secured by a pledge of the Massachusetts liquor license to be transferred to Borrowers and an All Asset Security and Pledge Agreement executed this date in the tangible equipment, inventory and assets and all intangible assets and accounts receivable of the Borrower, wherever the same may be located as evidenced by the Security Agreement executed by the Borrower hereto this same date.

All rights and obligations hereunder shall be governed by the laws of the Commonwealth of Massachusetts, and this Promissory Note shall have the effect of a sealed instrument. It is agreed this is not a Consumer Loan under Massachusetts General Laws, Chapter 140.

Witness our hands and seals as of this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

WITNESS TO ALL:

RK EARTH CORP

\_\_\_\_\_  
By: Rafael Klipp Borges  
Its: President and Treasurer

By: \_\_\_\_\_  
Rafael Klipp Borges, individually

**ASSET PURCHASE AGREEMENT**

**by and among**

**DINO'S GMAA, LLC, Maria Kakoutsis, as Member**

**as Seller**

**and**

**RK EARTH CORP,  
as Buyer**

**Dated as of**

**February 10, 2022**

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the “**Agreement**”) entered into as of February 10, 2022 by and between DINO’S GMAA, LLC, whose address is 1135 Main St., Concord, MA (“referred to as **Seller**”), and RK EARTH CORP (“**Buyer**”). Buyer and Seller may be referred to herein from time to time, each, as a “**Party**” and, collectively, as the “**Parties.**”

### WITNESSETH

WHEREAS, Seller operates a restaurant business at 1135 Main St., Concord, MA doing business as “Dino’s Kouzina Pizzeria” (the “**Business**”); and

WHEREAS, subject to the terms and conditions hereof, Seller desires to sell substantially all of its assets utilized by Seller in the Business; and

WHEREAS, subject to the terms and conditions hereof, Buyer desires to purchase said Business assets of Seller upon the terms and conditions specified herein.

NOW, THEREFORE, in order to consummate said purchase and sale and in consideration of the mutual agreements set forth herein, the parties hereto agree as follows:

### SECTION 1. PURCHASE AND SALE OF ASSETS.

#### Section 1.01 Sale of Assets.

- (a) Assets Purchased. Subject to the provisions of this Agreement, Seller agrees to sell and Buyer agrees to purchase, at the Closing (as defined in Section 1.04 hereof), the following assets of Seller used exclusively in the Business:
- (i) All tools and equipment used in connection with the Business, including without limitation that equipment listed on Schedule 1.01(a)(i) hereto (the “**Equipment**”);
  - (ii) All inventory owned by the Business on the Closing Date (the “**Inventory**”);
  - (iii) Subject to consents, if any, that may be required from third parties, Seller’s rights under various contracts pertaining to the Business to the extent assignable, including without limitation those written contracts between Seller and its end customers and suppliers listed on Schedule 1.01(a)(iii) hereto (“**Contracts**”);
  - (iv) Seller’s recipes, customer lists, mailing lists and past ordering behavior records, to the extent legally assignable and disclosable, in electronic form and, as available, in written form;

- (v) All of Seller's telephone numbers used with respect to the Business, to the extent assignable; and
- (vi) All of Seller's goodwill with respect to the Business, including the name of the business.

The foregoing assets of Seller to be sold to and purchased by Buyer under this Agreement are hereinafter sometimes referred to collectively as the "Subject Assets."

- (b) Excluded Assets. The following assets of said Business shall be specifically EXCLUDED from the Subject Assets:
  - (i) Seller's cash, cash equivalents and bank accounts;

**Section 1.02 Assumption of Liabilities.** Buyer shall not assume any liabilities or obligations of any kind or nature, contractual or otherwise, of Seller as of the date of the Closing, other than the obligations arising from and after Closing under the Contracts (collectively "Assumed Liabilities").

The only liabilities to be assumed by Buyer under this Agreement are the Assumed Liabilities, and all other obligations and the liabilities, of whatever kind and nature, are not assumed by Buyer under this Agreement are hereinafter sometimes referred to as the "Excluded Liabilities." The assumption of any liabilities by any party hereunder shall not enlarge any rights of third parties under contracts or arrangements with Buyer or Seller, and nothing herein shall prevent any party from contesting in good faith with any third party any of said liabilities.

**Section 1.03 Purchase Price and Payment.**

- (a) Purchase Price. "Purchase Price" shall mean an amount equal to [REDACTED]
- (b) Payment of Purchase Price. In consideration of the sale by Seller to Buyer of the Subject Assets and assumption by Buyer of the Assumed Liabilities, the Buyer agrees that it will deliver to Seller upon execution of this Agreement, the sum of [REDACTED] and at Closing the additional sum of [REDACTED] and to execute a Promissory Note for the sum of [REDACTED] in the form attached hereto as Exhibit 1.03, secured by a Security and Pledge Agreement with accompanying UCC1 in the form attached as Exhibit 1.03-A.

All deposits made hereunder shall be held in escrow by Eliopoulos & Eliopoulos, PC, as escrow agent in a non-interest bearing account, (an IOLTA account in case attorney holds deposit) subject to the terms of this agreement and shall be duly accounted for at the time for performance of this Agreement. In the event there is a default, the deposit shall immediately be paid over to the non-defaulting party. Should there be a reasonable disagreement as to who is in default and both parties have made written claims to the funds, then the escrow agent shall retain the deposit pending written mutually agreeable instructions, signed by both the Buyer

and the Seller or shall pay the monies into the courts upon the filing of an interpleader action. Furthermore, so long as Escrow Agent served in good faith, Buyer and Seller shall agree to hold harmless the Escrow Agent from damages, losses or expenses, arising out of this Agreement or any action or failure to act, including reasonable attorney's fees, related thereto.

**Section 1.04 Time and Place of Closing.** The closing of the purchase and sale provided for in this Agreement (herein called the "Closing") shall be held at the offices of Seller's attorney, within 30 days from the date the of the transfer of the liquor license as set forth herein (the "Closing Date") or at such other place or earlier date or time as may be fixed by mutual agreement of Buyer and Seller.

**Section 1.05 Transfer of Subject Assets.** At the Closing, Seller shall deliver or cause to be delivered to Buyer a bill of sale transferring to Buyer title to all the Subject Assets, in the form of Exhibit A attached hereto. Such bill of sale shall effectively vest in Buyer good and marketable title to all the Subject Assets free and clear of any and all mortgages, options, leases, charges, liens, interests, security interests, pledges, covenants, conditions, agreements, encumbrances or any other claims or restrictions of any nature whatsoever, including the claims or liens of any lenders, courts, governmental or regulatory authorities, bodies, bureaus and agencies, domestic or foreign (collectively, "Encumbrances"). Seller shall also deliver at closing a Certificate of Good Standing from the Secretary of the Commonwealth relative to the assets being sold hereunder. Seller shall also provide an Estoppel Certificate signed by Seller and Landlord, representing and warranting that no defaults exist under the Lease by Landlord or by Seller/Tenant as of the Time of Closing.

**Section 1.06 Delivery of Subject Assets.** At the Closing, and as a condition of Closing, Seller shall deliver or cause to be delivered to Buyer in accordance with Buyer's instructions all of the Subject Assets, with such assignments thereof as are necessary to assure Buyer of the full benefit of the same with respect to the Business.

**Section 1.07 Accounts Receivable.** Seller may use reasonable and customary efforts after the Closing to collect the accounts receivable of the Business for periods prior to the Closing Date for its own account, provided that such efforts do not interfere with Buyer's practice of the Business after the Closing Date and comply with applicable law.

**Section 1.08 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Subject Assets as set forth on Schedule 1.07, in which tangible personal property has been allocated amounts equal to its fair market value, and the balance of the Purchase Price has been allocated to goodwill. Such allocation has been made in accordance with the provisions of Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be binding upon Buyer and Seller for all purposes (including financial accounting purposes, financial and regulatory reporting purposes and tax purposes). Buyer and Seller also each agree to file IRS Form 8594 consistently with the foregoing and in accordance with Section 1060 of the Code.

**Section 1.09 Sales and Transfer Taxes.** All sales and transfer taxes, fees and duties under applicable law incurred in connection with this Agreement or the transactions contemplated thereby will be borne and paid by the party against whom such taxes, fees or duties are primarily imposed by applicable law, either party shall promptly reimburse the other for the payment of any

such tax, fee or duty which it has made on behalf of the other.

## **SECTION 2. REPRESENTATIONS AND WARRANTIES OF SELLER.**

**Section 2.01 Making of Representations and Warranties.** As a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated hereby, Seller hereby makes to Buyer the representations and warranties contained in this Section 2 as of the date hereof. As used herein, the "knowledge of Seller" or the "Seller's knowledge" or like terms shall mean the actual knowledge of the officers and senior employees of Seller, without any duty of independent investigation or inquiry.

**Section 2.02 Organization and Qualifications of Seller.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. Seller has all requisite power and authority to own or lease the Subject Assets and to conduct the Business. Seller is duly qualified, licensed and in good standing to conduct business and to perform services or provide goods in connection with the Business in every jurisdiction in which any of Seller's activities require qualification, licensure and good standing as of the Closing Date.

**Section 2.03 Authority of Seller.** Seller has full right, authority and power to enter into this Agreement and each agreement, document and instrument to be executed and delivered by Seller pursuant to this Agreement and to carry out the transactions contemplated hereby. The execution, delivery and performance by Seller of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of Seller and no other action on the part of Seller is required in connection therewith. This Agreement and each agreement, document and instrument executed and delivered by Seller pursuant to this Agreement constitutes, or when executed and delivered will constitute, valid and binding obligations of Seller enforceable in accordance with their terms. The execution, delivery and performance by Seller of this Agreement and each such agreement, document and instrument:

- (a) does not and will not violate any laws of the United States, or any state or other jurisdiction applicable to Seller or require Seller to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; and
- (b) does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of any indenture or loan or credit agreement or any other agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which Seller is a party or by which the property of Seller is bound or affected, or result in the creation or imposition of any mortgage, pledge, lien, security interest or other charge or encumbrance on any of the Subject Assets.

**Section 2.04 Equipment and other Subject Assets.** A complete description of substantially all of Seller's Equipment is contained in Schedule 1.01(a)(i). Seller has good and marketable title to or a valid, transferable license to use and/or to sublicense (as applicable) all of the Subject Assets. The Subject Assets are not subject to any Encumbrances. ALL WARRANTIES OF ANY KIND

WHATSOEVER, EXPRESS, IMPLIED AND STATUTORY, ARE HEREBY DISCLAIMED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED. THE EQUIPMENT (INCLUDING ANY ACCESSORIES AND COMPONENTS) IS SOLD 'AS IS.'

**Section 2.05 Absence of Undisclosed Liabilities.** There is no liability of any nature (whether accrued, absolute, contingent or otherwise) required by generally accepted accounting principles to be reflected in financial statements that was not fully disclosed, reflected or reserved against.

**Section 2.06 Subject Assets.** The Subject Assets constitute all of the property and property rights now used in, or necessary for the conduct of, the Business in the manner and to the extent presently conducted or planned by the Seller.

**Section 2.07 Leased Property.** All of the real property leased by Seller as tenant or lessee for the Business is identified on Schedule 2.08 (collectively referred to herein as the "Leased Real Property"). Seller hereby represents and warrants with respect to the Leased Real Property that the copies of the leases for the Leased Real Property delivered by Seller to Buyer (the "Leases") and the information with respect to each of the Leases set forth in Schedule 2.08 is complete, accurate, true and correct as of the date hereof. Except as set forth on Schedule 2.08:

- (a) each of the Leases is in full force and effect and has not been modified, amended or altered, in writing or otherwise except as provided in this Agreement;
- (b) all obligations of the landlord or lessor under the Leases which have accrued have been performed, and, to the best of the knowledge of Seller, no landlord or lessor is in default under any Lease;
- (c) all obligations of the tenant or lessee under the Leases which have accrued have been performed, and Seller is not in default under any Lease, and no circumstance presently exists which, with notice or the passage of time, or both, would give rise to a default by Seller.
- (d) All amounts which would result in Encumbrances under each and all leases have been paid and fully satisfied through Closing Date.

**Section 2.08 Taxes.**

- (a) Seller has paid or caused to be paid all federal, state, local, and other taxes, including, without limitation, income taxes, estimated taxes, alternative minimum taxes, excise taxes, sales taxes, use taxes, value-added taxes, gross receipts taxes, franchise taxes, capital stock taxes, employment and payroll-related taxes, withholding taxes, stamp taxes, transfer taxes, windfall profit taxes, environmental taxes and property taxes, whether or not measured in whole or in part by net income, and all deficiencies, or other additions to tax, interest, fines and penalties owed by it (collectively, "Taxes"), required to be paid by the Seller through the date hereof, whether disputed or not and said Taxes that accrue up through the closing date shall be paid by Seller when due.

- (b) Seller has in accordance with applicable law filed all federal, state and local tax returns required to be filed by it through the date hereof, and all such returns correctly and accurately set forth the amount of any Taxes relating to the applicable period.
- (c) Neither the Internal Revenue Service nor any other governmental authority is now asserting or, to the knowledge of Seller, threatening to assert against Seller any deficiency or claim for additional Taxes. There are no security interests on any of the assets of Seller that arose in connection with any failure (or alleged failure) to pay any Taxes. Seller has never entered into a closing agreement pursuant to Section 7121 of the Code.
- (d) Seller is not a "foreign person" within the meaning of Section 1445 of the Code and Treasury Regulations Section 1.1445-2.
- (e) For purposes of this Agreement, all references to Sections of the Code shall include any predecessor provisions to such Sections and any similar provisions of federal, state, local or foreign law.

**Section 2.09 Compliance with Laws.** Seller has not received any notice that it is not in compliance with any applicable statutes, ordinances, orders, judgments, decrees and rules and regulations promulgated by any federal, state, municipal or other governmental authority which apply to the Seller or to the conduct of his business.

**Section 2.10 Finder's Fee.** Seller has not incurred or become liable for any broker's commission or finder's fee relating to or in connection with the transactions contemplated by this Agreement.

**Section 2.11 Disclosure.** The representations, warranties and statements contained in this Agreement and in the certificates, exhibits and schedules delivered by Seller pursuant to this Agreement to Buyer do not contain any untrue statement of a material fact, and, when taken together, do not omit to state a material fact required to be stated therein or necessary in order to make such representations, warranties or statements not misleading in any material manner in light of the circumstances under which they were made.

### **SECTION 3. COVENANTS OF SELLER.**

**Section 3.01 Making of Covenants and Agreements.** Seller hereby makes the covenants and agreements set forth in this Section 3.

**Section 3.02 Conduct of Business.** Between the date of this Agreement and the Closing Date, Seller will:

- (a) Conduct its business only in the ordinary course and refrain from changing or introducing any method of management or operations, except in the ordinary course of business and consistent with prior practices;

- (b) Use commercially reasonable efforts to preserve the goodwill of all suppliers, customers, independent contractors and others having business relations with it;

**Section 3.03 Consummation of Agreement.** Seller shall use commercially reasonable efforts to perform and fulfill all conditions and obligations on its part to be performed and fulfilled under this Agreement, to the end that the transactions contemplated by this Agreement shall be fully carried out.

**Section 3.04 Confidentiality.** Seller agrees that, unless and until the Closing has been consummated, Seller, its managers, members, employees, agents and representatives will hold in strict confidence, and will not use, any confidential or proprietary data or information obtained from Buyer with respect to its business or financial condition except for the purpose of evaluating, negotiating and completing the transaction contemplated hereby and that such data and/or information shall only be disclosed to those of Seller's officers, directors, agents and representatives that have a need to know such information for such purpose. Information generally known in Buyer's industry or which has been disclosed to Seller by third parties who have a right to do so shall not be deemed confidential or proprietary information for purposes of this agreement. If the transaction contemplated by this Agreement is not consummated, Seller will return to Buyer (or destroy and certify that it has destroyed) all copies of such data and information, including, but not limited to, financial information, customer lists, business and corporate records, worksheets, test reports, tax returns, lists, memoranda and other documents prepared by or made available to Seller in connection with the transaction.

#### **SECTION 4. REPRESENTATIONS AND WARRANTIES OF BUYER.**

**Section 4.01 Making of Representations and Warranties.** As a material inducement to Seller to enter into this Agreement and consummate the transactions contemplated hereby, Buyer hereby makes the representations and warranties to Seller contained in this Section 4.

**Section 4.02 Organization and Qualification of Buyer.** If Buyer creates an entity to take title to the assets, it shall be validly existing and in good standing under the laws of the Commonwealth of Massachusetts with full corporate power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it. Buyer shall not in violation of any term of any such documents. Buyer is not required to be licensed or qualified to conduct its business or own its property in any other jurisdiction, except to the extent that its failure to be so qualified will not have a material or substantial adverse effect upon the operations of the Buyer. Buyer shall still remain personally liable under the promissory note contemplated herein.

**Section 4.03 Authority of Buyer.** Buyer has full right, authority and power to enter into this Agreement and each agreement, document and instrument to be executed and delivered by Buyer pursuant to this Agreement, and to carry out the transactions contemplated hereby. The execution, delivery and performance by Buyer of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary corporate action of Buyer, and no other action on the part of Buyer is required in connection therewith. This Agreement and each other agreement, document and instrument executed and delivered by Buyer pursuant to this Agreement constitute, or when executed and delivered will constitute, valid and binding obligations of Buyer

enforceable in accordance with their terms. The execution, delivery and performance by Seller of this Agreement and each such agreement, document and instrument:

- (a) does not and will not violate any provision of any Articles of Organization, Certificate of Formation or Certificate of Limited Partnership, as amended to date, or bylaws, operating agreement or limited partnership agreement, as amended to date, in each case, as applicable, of Buyer;
- (b) does not and will not violate any laws of the United States, or any state or other jurisdiction applicable to Seller or require Buyer to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; and
- (c) does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of any indenture or loan or credit agreement or any other agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which Buyer is a party or by which the property of Buyer is bound or affected.

**Section 4.04 Litigation.** There is no litigation or governmental or administrative proceeding or investigation pending or, to its knowledge, threatened against Buyer which may have any adverse effect on Buyer's properties, assets, prospects, financial condition or business, or prevent or hinder the consummation of the transactions contemplated by this Agreement.

**Section 4.05 Compliance with Laws.** Buyer has not received any notice that it is not in compliance with any applicable statutes, ordinances, orders, judgments, decrees and rules and regulations promulgated by any federal, state, municipal or other governmental authority which apply to the Buyer or to the conduct of its business.

**Section 4.06 Finder's Fee.** Buyer has not incurred or become liable for any broker's commission or finder's fee relating to or in connection with the transactions contemplated by this Agreement.

**Section 4.07 Disclosure.** The representations, warranties and statements contained in this Agreement and in the certificates, exhibits and schedules delivered by Buyer pursuant to this Agreement to Seller do not contain any untrue statement of a material fact, and, when taken together, do not omit to state a material fact required to be stated therein or necessary in order to make such representations, warranties or statements not misleading in any material manner in light of the circumstances under which they were made.

## **SECTION 5. COVENANTS OF BUYER.**

**Section 5.01 Making of Covenants and Agreement.** Buyer hereby makes the covenants and agreements set forth in this Section 5.

**Section 5.02 Consummation of Agreement.** Buyer shall use commercially reasonable efforts to perform and fulfill all conditions and obligations on their parts to be performed and fulfilled

under this Agreement, to the end that the transactions contemplated by this Agreement shall be fully carried out. Buyer covenants that it has the financial ability to fulfill all obligations undertaken herein and will unconditionally pay all amounts promised to pay under the Promissory Note executed in connection herewith without set-off.

**Section 5.03 Cooperation of Buyer.** Buyer shall cooperate with all reasonable requests of Seller and Seller's counsel in connection with the consummation of the transactions contemplated hereby.

**Section 5.04 Confidentiality.** Buyer agrees that, unless and until the Closing has been consummated, Buyer and its officers, directors, agents and representatives will hold in strict confidence, and will not use any confidential or proprietary data or information obtained from Seller with respect to the business or financial condition of Seller, except for the purpose of evaluating, negotiating and completing the transaction contemplated hereby. Information generally known in Seller's industry or which has been disclosed to Buyer by third parties who have a right to do so shall not be deemed confidential or proprietary information for purposes of this agreement. If the transaction contemplated by this Agreement is not consummated, Buyer will return to Seller (or certify that it has destroyed) all copies of such data and information, including, but not limited to, financial information, customer lists, business and corporate records, worksheets, test reports, tax returns, lists, memoranda and other documents prepared by or made available to Buyer in connection with the transaction.

## **SECTION 6. CONDITIONS.**

**Section 6.01 Conditions to the Obligations of Buyer.** The obligation of Buyer to consummate this Agreement and the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of the following conditions precedent:

- (a) Assignment of Massachusetts Liquor License. Prior to Closing, the Buyer and Seller will cooperate with each other in Buyer's application to the local and state boards to obtain a transfer of the liquor license and accompanying pledge back to Buyer to secure payment of Buyer's obligations hereunder
- (b) Consent to assignment of Lease. Prior to Closing, the Buyer and Seller will cooperate with each other in securing the current landlord's assent to the assignment of the Lease attached hereto as Exhibit B which shall include with one additional Five (5) year option to renew at a rent of \$3,540 per month for those first five years with the right to extend the Lease to 2037 at a rental rate to be agreed upon by Landlord and Tenant. Seller shall pay any reasonably attorney's fees charged by the landlord or incurred by landlord in evaluating, processing and documenting said assignment and amendment to Lease.
- (c) No Material Change. There shall have been no material adverse change in the financial condition, prospects, properties, assets, liabilities, business or operations of Seller since the date hereof, whether or not in the ordinary course of business.

- (d) Buyer's purchase is conditioned upon Buyer obtaining any and all necessary permits, licenses and approvals to operate the Business at its present location, including and/or the successful transfer to Buyer of all existing permits, licenses, the full liquor license, and all other approvals concerning said business. Buyer shall submit an application for transfer of the existing liquor license to the Town within 15 days from the execution of the Purchase and Sale agreement. It shall be the BUYER's sole responsibility to acquire any and all permits and licenses necessary for the conduct of the business or in the transfer of any license for the sale of Assets.

Notwithstanding the above, in the event Buyer has not obtained the transfer of the existing liquor license or any other necessary permits and approvals by April 30, 2022, the either party may terminate this agreement and whereupon Buyer shall obtain a full refund of all deposits.

Except as set forth above, if Buyer shall fail to fulfill Buyer's agreements herein, the Deposit and the interest earned thereon, if any, shall be the Sellers as liquidated damages. Subject to and without derogating from or impairing in any way Seller's rights or Buyer's obligations under the provisions of this Agreement, a retention of the Deposit and interest earned thereon shall constitute Seller's sole and exclusive remedy for a failure by Buyer to perform hereunder. The parties agree that a sum equal to the Deposit represents a reasonable estimate of the damages Seller will sustain as a result of a default by the Buyer.

**Section 6.02 Conditions to Obligations of Seller.** Seller's obligation to consummate this Agreement and the transactions contemplated hereby is subject to the fulfillment, prior to or at the Closing, of the following conditions precedent:

- (a) Representations; Warranties; Covenants. Each of the representations and warranties of Buyer contained in Section 4 shall be true and correct in all material respects as though made on and as of the Closing; Buyer shall, on or before the Closing, have performed all of its obligations hereunder which by the terms hereof are to be performed on or before the Closing.
- (b) No Material Change. There shall have been no material adverse change in the financial condition, prospects, properties, assets, liabilities, business or operations of Seller since the date hereof, whether or not in the ordinary course of business.
- (c) No Litigation. There shall have been no determination by Seller, acting in good faith, that the consummation of the transactions contemplated by this Agreement has become inadvisable or impracticable by reason of the institution or threat by any person or any federal, state or other governmental authority of material litigation, proceedings or other action against Buyer or Seller.

## **SECTION 7. TERMINATION OF AGREEMENT; RIGHTS TO PROCEED.**

**Section 7.01 Termination.** At any time prior to the Closing, this Agreement may be terminated as follows:

- (a) by mutual written consent of all of the parties to this Agreement;
- (b) by Buyer, pursuant to written notice by Buyer to Seller, if any of the conditions set forth in Section 6.01 of this Agreement have not been satisfied at or prior to the Closing, or if it has become reasonably and objectively certain that any of such conditions, other than a condition within the control of Seller, will not be satisfied at or prior to the Closing, such written notice to set forth such conditions which have not been or will not be so satisfied; and
- (c) by Seller, pursuant to written notice by Seller to Buyer, if any of the conditions set forth in Section 6.02 of this Agreement have not been satisfied at or prior to the Closing, or if it has become reasonably and objectively certain that any of such conditions, other than a condition within the control of Buyer, will not be satisfied at or prior to the Closing, such written notice to set forth such conditions which have not been or will not be so satisfied.
- (d) In the event the Buyer does not perform its obligations hereunder, then Seller as its sole remedy, shall have the right to terminate this Agreement and retain any deposits hereunder.

**Section 7.02 Effect of Termination.** All obligations of the parties hereunder shall cease upon any termination pursuant to Section 7.01, provided, however, that the provisions of Sections 7 and 10 hereof shall survive any termination of this Agreement.

**Section 7.03 Right to Proceed.** Anything in this Agreement to the contrary notwithstanding, if any of the conditions specified in Section 6.01 hereof have not been satisfied, Buyer shall have the right to proceed with the transactions contemplated hereby and thereupon shall be deemed to waive any objections and accept any known existing conditions, and if any of the conditions specified in Section 6.02 hereof have not been satisfied, Seller shall have the right to proceed with the transactions contemplated hereby and thereupon shall be deemed to waive any objections and accept any known existing conditions.

## **SECTION 8. RIGHTS AND OBLIGATIONS SUBSEQUENT TO CLOSING.**

**Section 8.01 Survival of Warranties.** Except as otherwise set forth herein, each of the representations, warranties, agreements, covenants and obligations herein or in any schedule, exhibit, certificate or financial statement delivered by any party to the other party incident to the transactions contemplated hereby shall survive the Closing.

## **SECTION 9. MISCELLANEOUS.**

### **Section 9.01 Fees and Expenses.**

- (a) Each of the parties will bear its own expenses in connection with the negotiation and the consummation of the transactions contemplated by this Agreement, and no expenses of Seller relating in any way to the purchase and sale of the Subject Assets

hereunder and the transactions contemplated hereby, including, without limitation, legal, accounting or other professional expenses of Seller, shall be charged to or paid by Buyer or included in any of the Assumed Liabilities.

- (b) Seller will at its expense deliver to Buyer assignments, bills of sale or other documents to effect the change of ownership of the Subject Assets and the other rights to be transferred in accordance with this Agreement, and Buyer will at its expense file or record such of said documents as it may deem appropriate to perfect the transfer, including without limitation the payment of any costs, expenses or transfer or sales taxes imposed in connection with the transfers of vehicles included in the Subject Assets.

**Section 9.02 Governing Law.** This Agreement shall be construed under and governed by the internal laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions.

**Section 9.03 Notices.** Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if delivered or sent by facsimile transmission, upon receipt, nationally recognized overnight delivery service or if sent by certified mail, upon the sooner of the date on which receipt is acknowledged or the expiration of three days after deposit in United States post office facilities properly addressed with postage prepaid. All notices to a party will be sent to the addresses set forth below or to such other address or person as such party may designate by notice to each other party hereunder:

**TO BUYER:** RK EARTH CORP  
c/o Rafael Klipp Borges  
20 Vincent Ave.  
Lancaster, MA 01523

With a copy to:

**TO SELLER:** DINO'S GMAA, LLC  
130 Turnpike Road, Unit 1  
Chelmsford, MA 01824

With a copy to: Philip Eliopoulos, Esq.  
Eliopoulos & Eliopoulos, P.C.  
9 North Road  
Chelmsford, MA 01824

Any notice given hereunder may be given on behalf of any party by his counsel or other authorized representatives.

**Section 9.04 Entire Agreement.** This Agreement, including the Schedules and Exhibits referred to herein and the other writings specifically identified herein or contemplated hereby, is

complete, reflects the entire agreement of the parties with respect to its subject matter, and supersedes all previous written or oral negotiations, commitments and writings. No promises, representations, understandings, warranties and agreements have been made by any of the parties hereto except as referred to herein or in such Schedules and Exhibits or in such other writings; and all inducements to the making of this Agreement relied upon by either party hereto have been expressed herein or in such Schedules or Exhibits or in such other writings.

**Section 9.05 Assignability; Binding Effect.** This Agreement may not be assigned by Seller or Buyer without the prior written consent of the other. This Agreement shall be binding upon and enforceable by, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

**Section 9.06 Captions and Gender.** The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof. The use in this Agreement of the masculine pronoun in reference to a party hereto shall be deemed to include the feminine or neuter, as the context may require.

**Section 9.07 Execution in Counterparts.** For the convenience of the parties and to facilitate execution, this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

**Section 9.08 Amendments.** This Agreement may not be amended or modified, nor may compliance with any condition or covenant set forth herein be waived, except by a writing duly and validly executed by each party hereto, or, in the case of a waiver, the party waiving compliance.

**Section 9.09 Publicity and Disclosures.** No press releases or public disclosure, either written or oral, of the transactions contemplated by this Agreement, shall be made by a party to this Agreement without the prior knowledge and written consent of Buyer and Seller.

**Section 9.10 Consent to Jurisdiction.** Except as otherwise governed by applicable federal law, this Agreement, and all rights and remedies of the parties, shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to the principles of conflict of laws. Any action brought to interpret and/or enforce this Agreement shall be tried in state or federal courts located in Boston, Massachusetts and all claims to improper venue and *forum non conveniens* are waived; and the parties hereby submit to Massachusetts personal jurisdiction and all claims to failure to obtain personal jurisdiction are waived.

**Section 9.11 Representation.** Each of the undersigned represents that he/she/it has had an opportunity to review this Agreement and each of the other documents and agreements contemplated hereby with legal counsel of his/her/its own choosing.

**Section 9.12 Non-Compete** In order to induce BUYER to purchase the Business and assets of SELLER pursuant to this Agreement and in consideration of deposits hereunder and the proceeds paid at the Closing, SELLER and Grigorios Paraschos, jointly and severally, agree to the following restrictive covenants and agreements, which covenants are not severable from the purchase and sale of the Business and assets hereunder and which are included to protect the value thereof and to insure to BUYER the benefit of their full value. Accordingly, SELLER (which term shall

include any parent, subsidiary or affiliated entity of SELLER for the purposes of this Paragraph) and Grigorios Paraschos each agree that they will not, at any time for a period of five (5) years after the closing Date, directly or indirectly compete with the BUYER or its subsidiaries or affiliates, and for these purposes the same shall mean that they will not, directly or indirectly, own, manage, operate, join control or participate in, consult to, or be connected as an officer, employee, partner, director, trustee or otherwise in any manner with any business engaged in the same or similar business as that of the SELLER now, or the BUYER, its parents, subsidiaries or affiliates, now or thereafter, or competing directly or indirectly with the BUYER, or its subsidiaries or affiliates within a 10 mile radius of the current location of the Business, nor have any interest of any kind or character in any competitor of the BUYER or its said nominee, subsidiaries or affiliates, within such geographical areas. The aforesaid parties acknowledge and agree that the remedy at law for any breach or threat of breach of the foregoing agreements by them will be inadequate and that the BUYER shall be entitled to injunctive relief in addition to any rights or remedies available to it for any breach or threat of breach hereof. The foregoing covenants shall be deemed to be severable and if the same be held invalid by reason of length of time or area covered, or both, SELLER and Grigorios Paraschos agrees that such length of time or area covered, or either of them, shall be reduced to the extent necessary to cure such invalidity and the provisions thereof shall be enforceable to the fullest extent permitted by law.

**Section 9.13** Once Buyer has submitted a full application to the Board of Selectmen and a public hearing date has been set, Buyer shall have the right to assign a representative of Buyer to work at the business to familiarize Buyer with said operation. Said representative shall not be considered an employee of Seller but rather an independent contractor of Buyer assigned to said Business on its behalf. Nevertheless, Seller shall pay said independent contractor \$17 per hour and take out any requisite taxes required by state and federal code.

**[Remainder of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

Seller: DINO'S GMAA, LLC


By: 

Name: Marja Kaloutsis

Its: Member

Buyer: RK EARTH CORP

By:   
Name: Rafael Klipp Borges, President

By:   
Grigorios Paraschos as to Section 9.12

**TOWN OF CONCORD  
COMMON VICTUALLER'S LICENSE APPLICATION**

**New License Application Fee: \$50.00**

The undersigned hereby applies for a Common Victualler License in accordance with the provisions of the State relating thereto:

**Name of Applicant:** Richard Abbott

**Name of Business:** <sup>print</sup> West Concord Tavern, LLC

**Business d/b/a:** <sup>print</sup> West Village Tavern

**Address:** 13 Commonwealth Avenue

**Applicant Signature:** 

**Business Phone:** 978.335.2469      **Home/Cell Phone:** 978.335.2469

In accordance with the rules and regulations made under authority of said statute

**Fee Paid:** \$ 50.00      **Date:** 05/23/2022

**APPROVAL:** Prior to design, construction or renovation to any establishment requiring a Common Victuallers license, the applicant must receive approval from each of the departments listed below. Only then will consideration of the license be put on the Selectmen's agenda.

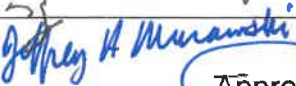
**Building Commissioner:**        **Approved:**      **Disapproved:**

**Number of Approved Seats** 99

**Remarks:**  Contingent on passing all life & safety inspections

**Public Health Director:**        **Approved:**      **Disapproved:**

**Remarks:** Contingent upon buildout inspection, pre-operational inspection and licensing

Jeffrey A. Murawski            (7/29/2022)  
**CPW – Water & Sewer Superintendent**       **Approved:**      **Disapproved:**

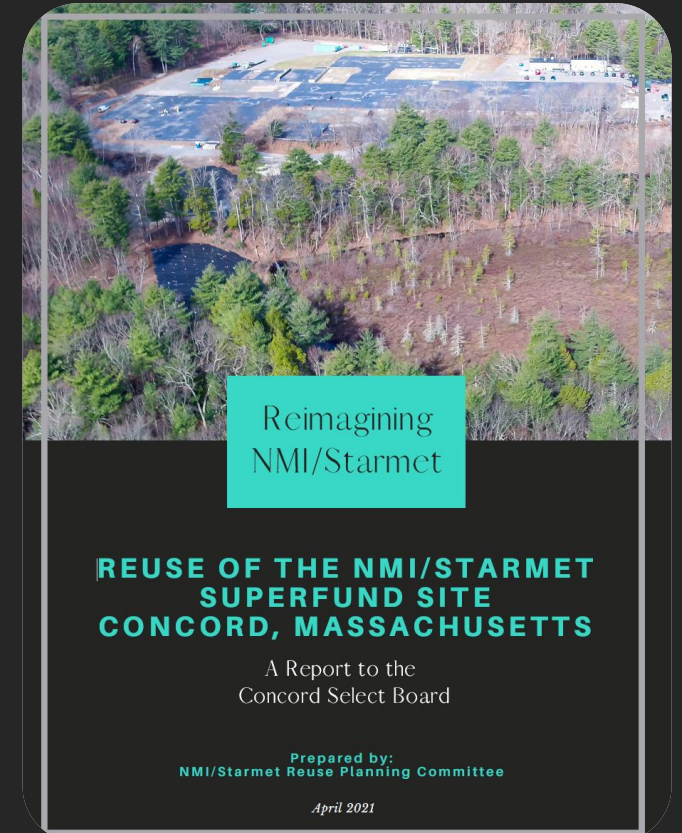
**Remarks:** No increase in sewage flow, no change in property use.

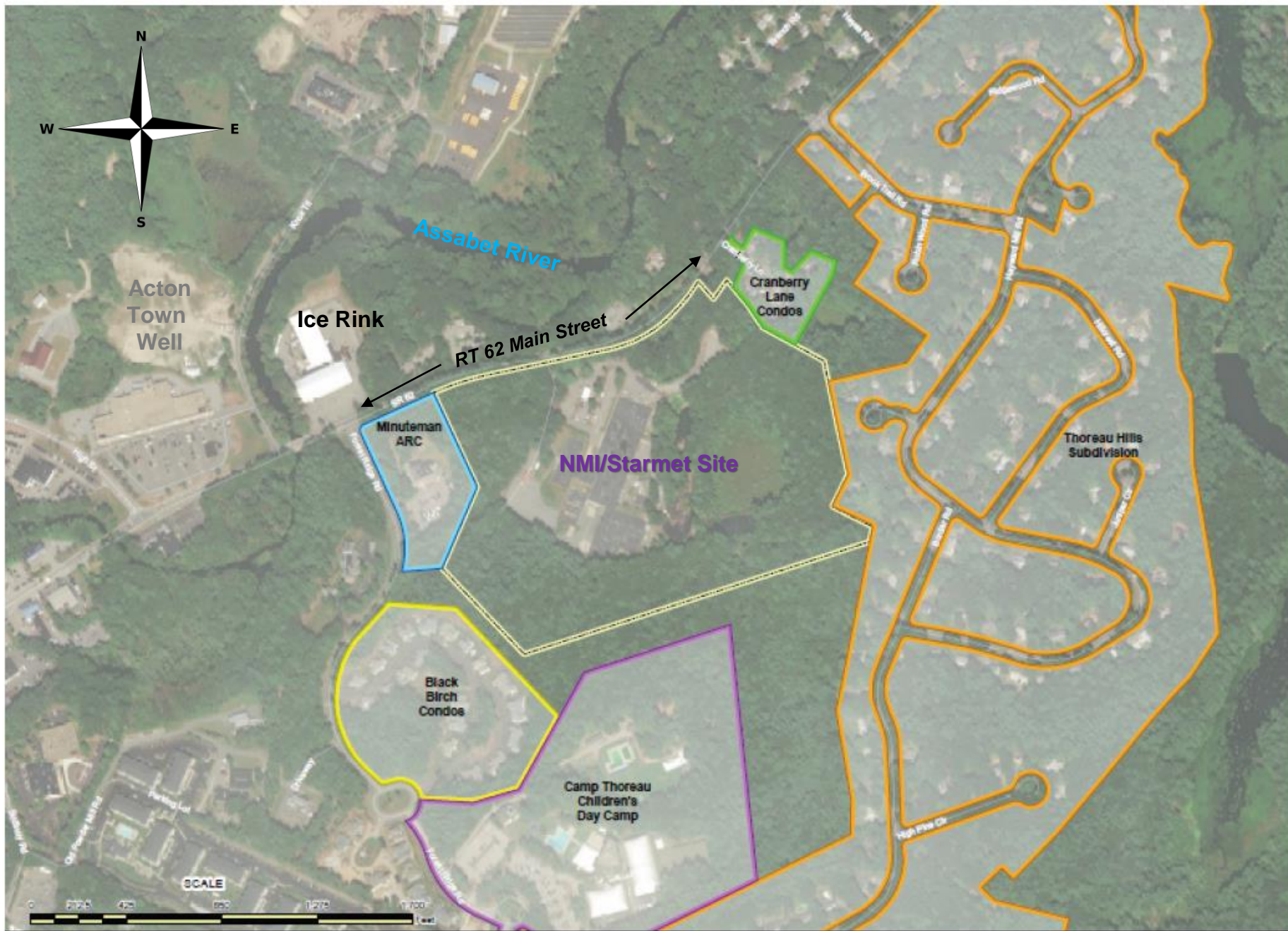
# NMI/Starmet Reuse Planning: Recap and Action Planning

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Select Board Briefing  
September 12, 2022

Paul Boehm & Gary Kleiman  
Co-Chairs  
NMI/Starmet Reuse Planning Committee





Aerial view of the NMI Site and surrounding properties

**Black Birch**

**Forest Ridge Rd.**

**Minuteman Arc**

**Thoreau Hills & Powder Mill Trail**

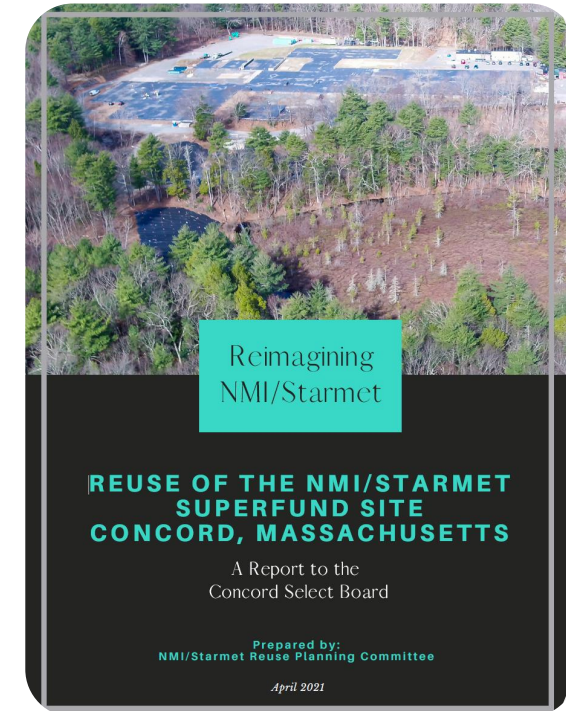
**NMI/Starmet Site  
(2229 Main Street)**

**Rt 62 (Main Street)**

**Cranberry Lane**

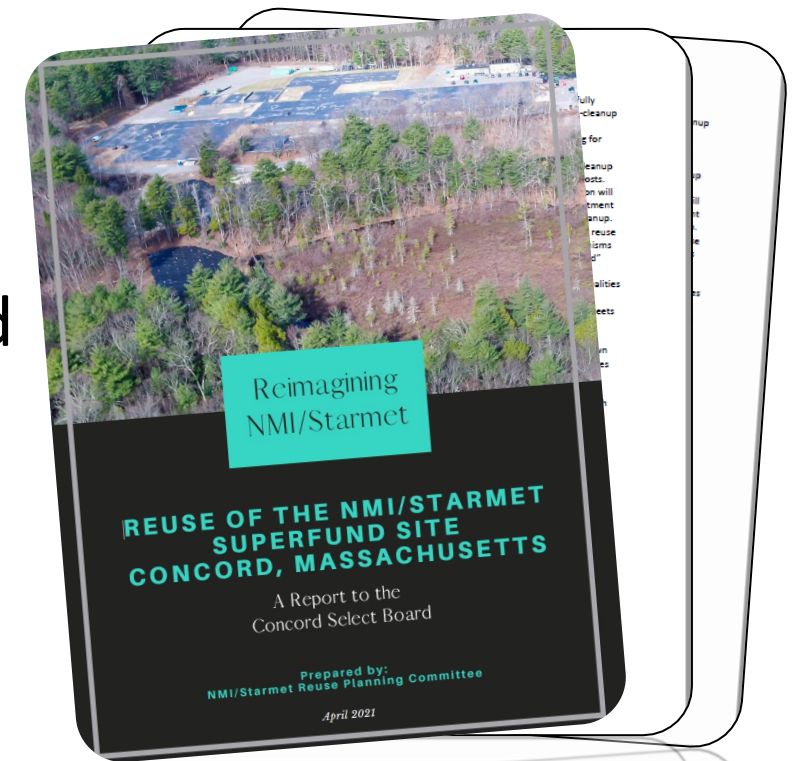
# Previous Committee Activities

- Commenced work in June 2019 to focus on acquisition and redevelopment issues
- Conducted public workshops on reuse and development with assistance from USEPA
- (Consent Decree issued by DOJ – October 2019)
- First briefing to Select Board – February 2020
- Report to Select Board issued – April 2021
- Briefing to Select Board – April 2021



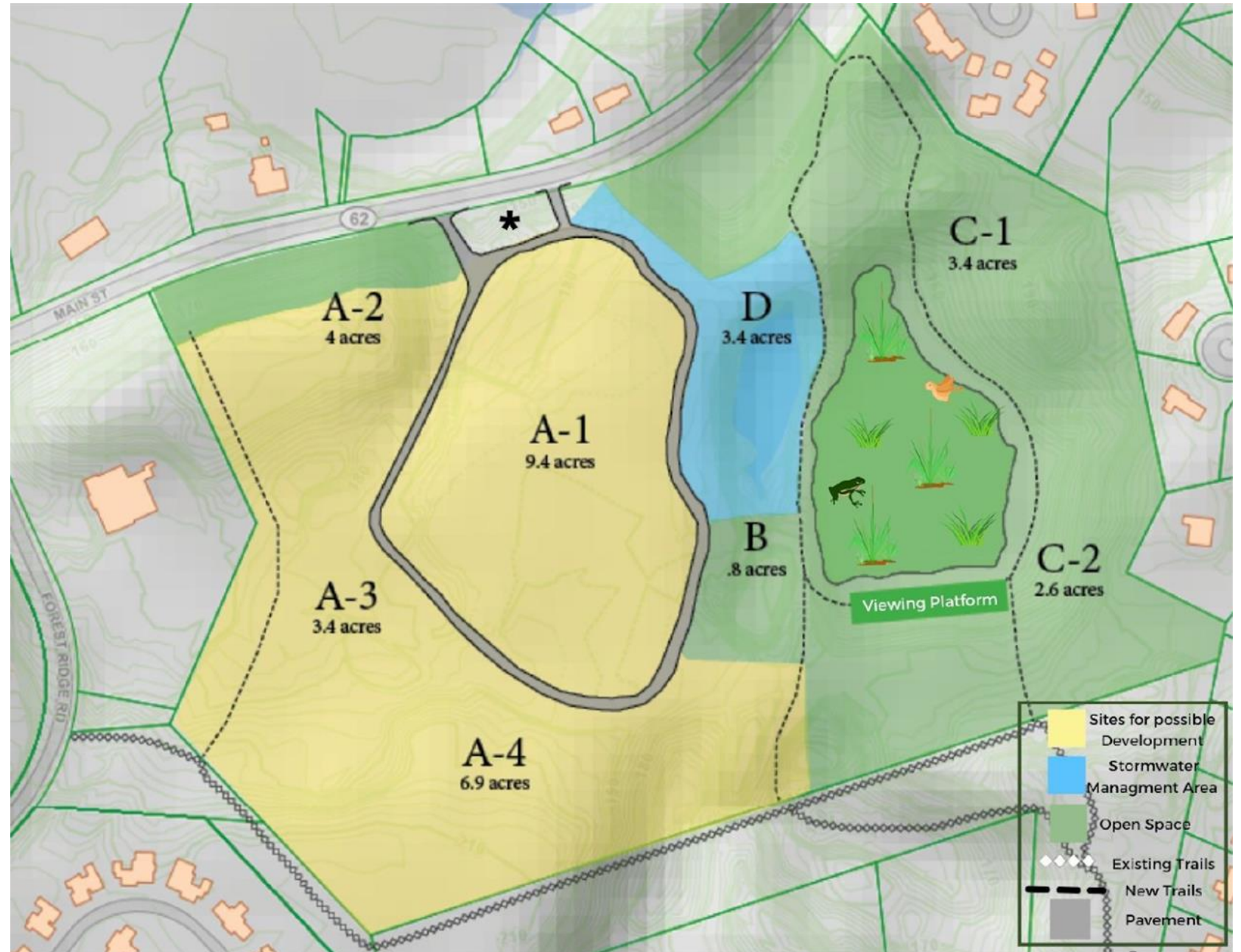
# In The Report

- Redevelopment options (Ch. 4)
- Risk discussions (Ch. 3.1)
- Case Studies: Examples of other municipality acquisition and development of Superfund and Brownfields sites (Annex C)
- Liability minimization and acquisition path discussion (Ch. 3.2; Annex E)



# “Master Plan”

1. **Area A-1**: initial redevelopment (buildings)
2. **Ring Road** to provide access
3. **Parking** lots and other building infrastructure within/adjacent to Ring Road
4. Revegetation of **Area B** (“Holding Basin”)
5. **Area C**. Preserve natural bog. Open conservation area; trails/connections; viewing
6. **Area D**: Stormwater collection for site
7. Space reserved for **transit** options and linkages (\*)
8. **Areas A-2, A-3, A-4** all possible sites for housing, outdoor recreation, or conservation



# 2021 NSRC Report's Near-Term Recommendations

- Develop a process and path for Town of Concord taking ownership of the 2229 Main St. parcel
- Decide on mechanism for further planning for the site's redevelopment
- Undertake risk communication efforts

# Example of a Low Intensity\* Plan as Part of Phase 1

- Emphasize nature, sustainability, conservation, and surface uses only over 6+ feet of clean soil
- Develop passive recreation afforded by new and connective trails and nature observation
- Develop active recreation – playing fields, covered pavilion(s), etc.
- Access and parking
- Evaluate risks with this plan or similar (e.g. MA Technical Assistance Grant or other)
- And later (Phase 2) consider other potential options (e.g., affordable housing isolated from any past contamination; structures over filled areas)



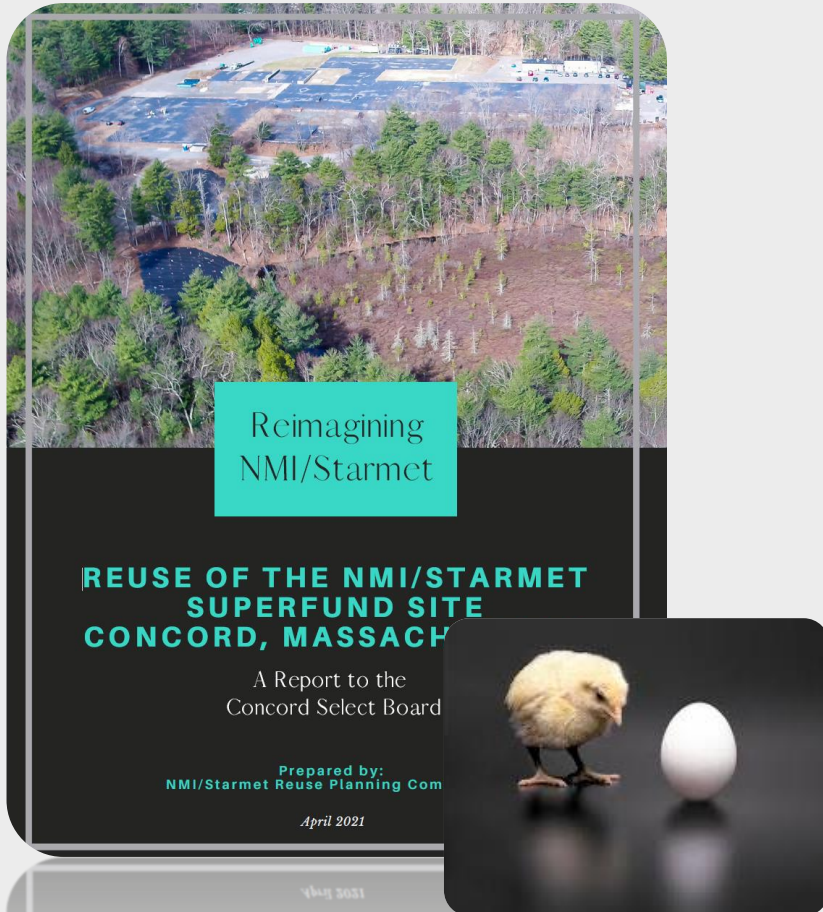
\*In or over uncontaminated areas and/or over clean fill; minimal digging

# Issues to Address (Next 12 Months)

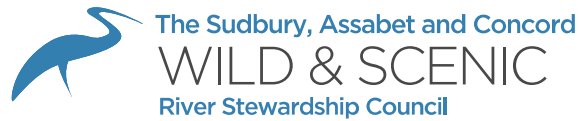
- **Select Board needs to**
  - Define and fill gaps in knowledge in order to increase comfort levels, before moving forward
    - i.e., acquisition and development risks
  - In parallel, fully understand and explore how site development could meet current and future needs of the Town

## Suggested Near-Term Actions (complete Q3 2023)

- Apply for and analyze results from a MA TAG grant to explore the risks and other impacts of the specific “low-intensity” and other development options
- Pursue better legal, operational, and financial understanding of pathways to acquisition and waivers of liability
- Draft a (re)charge for a (new) committee or task force to review the above and propose path towards and a conceptual plan for development



# **Discussion Next Steps: Fill Gaps & Actions**



## Representative Job Description

### What Is the Sudbury, Assabet and Concord (SuAsCo) Wild and Scenic River?

In 1968, in an effort to protect waterways that were being degraded at an alarming rate, Congress passed the Wild and Scenic Rivers Act to provide federal protections to rivers. In 1999, 29 miles of the Sudbury, Assabet and Concord Rivers were designated by Congress as Wild and Scenic with broad support from the communities surrounding the Rivers, in recognition of the “outstandingly remarkable values,” such as the extraordinary ecology, history and scenic beauty of the area.

The goal of the Wild and Scenic designation of a river is to protect the unique character of a river while managing for competing uses. SuAsCo Wild and Scenic River is managed as a partnership between the National Park Service and a Council of representatives from eight towns along the Wild and Scenic segments, as well as representatives from the Commonwealth of Massachusetts, US Fish and Wildlife Service, and two local non-profits, OARS and Sudbury Valley Trustees. This group of representatives is known as the “River Stewardship Council” or “RSC.”

### Participating on the River Stewardship Council – Playing A Critical Role

Being part of the RSC is a unique opportunity to contribute to the care and stewardship of the rivers. Representatives work together as committed volunteers on a range of issues. The purpose of the RSC (as described in the federal designation) is to promote the long-term protection of the rivers by: 1) coordinating implementation of the River Conservation Plan, 2) convening on a regular basis various parties responsible for the river management; and 3) providing a focus and forum for all river interests to discuss and make recommendations regarding issues of concern.

Town representatives play a critical role. National Park Service staff rely on volunteers to share information about projects and river related efforts in their town or organization; NPS staff also provide information back to representatives to bring back to their towns about available grant funds, special events and other unique opportunities. Town representatives are therefore the first to know about opportunities their town or organization may enjoy.

Council representatives are also encouraged to volunteer on a subcommittee, where more proactive work on special projects happens. Examples include water flow research, Riverfest event planning, outreach and education, and management planning.

Meetings are held monthly for two hours, and involve a combination of reviewing projects along the Rivers, developing projects to care for the Rivers, and making decisions about how best to use federal funds. Occasionally the RSC also comes together for fun events, such as the annual Riverfest weekend, and social occasions when we can enjoy the Rivers together, such as our annual summer boating outing.

The National Park Service staff work behind the scenes with the Council chair to make sure that meetings are efficient, and well organized; the unique nature of the conversation and projects that the RSC engage in vary according to the energy, interests and concerns of Council members.

More information about the responsibilities of the Council, the SuAsCo river system, and the Wild and Scenic River Program can be found at <http://www.sudbury-assabet-concord.org/the-organization/river-stewardship-council> and <http://www.nps.gov/wsr>.

### Job Description of a Representative – Specific Duties

Representatives are responsible for carrying out the duties spelled out in the River Conservation Plan. These are:

- Attending RSC meetings; RSVP'ing when one cannot attend, and communicating with an alternate representative to attend if possible.
- Responding to email and other communications of/from the Council
- Participating actively in Council deliberations
- Informing the appointing body (Board of Selectmen or Conservation Commission) about the Council's work
- Relaying back to the RSC any information related to their town's/organization's activities that could impact the Wild and Scenic River and implementation of the River Conservation Plan
- Serving as liaison to their constituency, representing their interests and concerns

### Working with An Alternate

When possible, town representatives are asked to work with an alternate, who can work with them in their town and also represent the town when the representative cannot. The alternate is encouraged to attend RSC meetings and participate in its deliberations whenever possible; however, the alternate may vote only when the representative is not present at a meeting or is unable to respond to other forms of communication.

### How To Make Appointment Happen

Representatives are appointed by their respective governing body. In the case of town representatives, this may be the Board of Selectmen or Conservation Commission; representatives of organizations are appointed by their governing bodies. Representatives and alternates shall serve three-year terms, without limit as to the number of terms, unless specified by the member institution.

### Join Us!

We hope you'll consider joining us in this effort to care for our local resources. Please don't hesitate to be in touch with questions. For more information, please contact:

Emma Lord  
Natural Resource Specialist  
Sudbury, Assabet and Concord Wild and Scenic Rivers  
National Park Service  
54 Portsmouth Street, Concord, NH 03301  
(617) 981-2116  
[emma\\_lord@nps.gov](mailto:emma_lord@nps.gov)