

THIRD AMENDMENT OF LEASE

THIS THIRD AMENDMENT OF LEASE (this "**Third Amendment**") is made as of this 22 day of September 2014, but effective as of May 30, 2014 (the "**Effective Date**"), by and between GFS Realty LLC, with an office at 1385 Hancock Street, Quincy, Massachusetts 02169 (the "**Landlord**"), and Montgomery County, Maryland (Department of Liquor Control), with a mailing address of of 201 Edison Park Drive, Gaithersburg Maryland 20878 (the "**Tenant**").

RECITALS:

- A. Reference is hereby made to that certain lease dated March 13, 2000, by and between GFS Realty, Inc., now known as GFS Realty LLC, as "Landlord," and Montgomery County, Maryland (Department of Facilities and Services), now known as Montgomery County, Maryland (Department of Liquor Control), as "Tenant".
- B. Said lease, as it has been amended by that certain First Amendment of Lease dated May 2, 2006 and by that certain Second Amendment of Lease dated August 20, 2009, is hereinafter collectively referred to as the "**Lease**".
- C. The Lease demised certain premises containing approximately 4,050 square feet of floor area (the "**Premises**") in a shopping center known as Olney Shopping Center (the "**Center**") situated on Georgia Avenue, Olney, Maryland 20832.
- D. All capitalized terms used herein will have the same meanings as given to them in the Lease, unless otherwise defined in this Third Amendment.
- E. Landlord and Tenant are current holders, respectively, of the Landlord and Tenant interests under the Lease.
- F. The term of the Lease expired on May 31, 2014.
- G. Landlord and Tenant desire to amend the Lease, *inter alia*, to extend the term of the Lease beginning on June 1, 2014 and expiring on July 31, 2021 and to provide Tenant with one (1) seven (7) year option period as set forth below.

AGREEMENT:

NOW THEREFORE, in consideration of the foregoing, of the agreements contained in this Third Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, as of the Effective Date, Landlord and Tenant, intending to be legally bound, hereby agree to amend the Lease as follows:

AM

1. The Lease Term is hereby extended for one (1) period of seven (7) years, commencing on June 1, 2014 and ending, unless sooner terminated pursuant to the terms of this Lease, on July 31, 2021 (the "**Third Extended Term**").
2. Tenant shall have the right to extend the Lease Term upon all of the terms, covenants and conditions contained herein for one (1) extension period of seven (7) years in duration beginning August 1, 2021 and expiring, unless sooner terminated pursuant to the terms of the Lease, on July 31, 2028 (the "**Extension Period**"), by written notice sent to Landlord on or before July 31, 2020. Once exercised, the extension right shall be deemed to have been exhausted and shall not be susceptible of revival as one of the "terms" contained in the Lease, to be carried forward, unmodified, into the extended term. Tenant's right to extend the Lease Term shall be void (i) if this Lease is not in full force and effect when any such right is exercised, or (ii) if a default shall exist under the Lease at the time Tenant's notice of the exercise of its right to extend the Lease Term is given to Landlord or at the time the Extension Period is scheduled to commence. In the event Tenant fails to give notice in strict compliance with the terms of this Section 2 of this Third Amendment, Tenant's option to extend shall be deemed conclusively to have been waived and the Lease shall not be extended beyond July 31, 2021. Notwithstanding anything contained in the Lease to the contrary, Tenant shall have no further right to extend the Lease Term beyond July 31, 2028.
3. Minimum Rent for the Third Extended Term and the Extension Period shall be as follows:

(Rent schedule on the page to follow)

(The remainder of this page left intentionally blank)

Third Extended Term	Annual Rent	Monthly Rent	Rent Per Square Foot
June 1, 2014 - July 31, 2014	\$ 78,975.00	\$ 6,581.25	\$ 19.50
August 1, 2014 - July 31, 2015	\$ 81,000.00	\$ 6,750.00	\$ 20.00
August 1, 2015 - July 31, 2016	\$ 83,025.00	\$ 6,918.75	\$ 20.50
August 1, 2016 - July 31, 2017	\$ 85,050.00	\$ 7,087.50	\$ 21.00
August 1, 2017 - July 31, 2018	\$ 87,075.00	\$ 7,256.25	\$ 21.50
August 1, 2018 - July 31, 2019	\$ 89,100.00	\$ 7,425.00	\$ 22.00
August 1, 2019 - July 31, 2020	\$ 91,125.00	\$ 7,593.75	\$ 22.50
August 1, 2020 - July 31, 2021	\$ 93,150.00	\$ 7,762.50	\$ 23.00
Extension Period, if applicable	Annual Rent	Monthly Rent	Rent Per Square Foot
August 1, 2021 - July 31, 2022	\$ 95,175.00	\$ 7,931.25	\$ 23.50
August 1, 2022 - July 31, 2023	\$ 97,200.00	\$ 8,100.00	\$ 24.00
August 1, 2023 - July 31, 2024	\$ 99,225.00	\$ 8,268.75	\$ 24.50
August 1, 2024 - July 31, 2025	\$ 103,275.00	\$ 8,606.25	\$ 25.50
August 1, 2025 - July 31, 2026	\$ 107,325.00	\$ 8,943.75	\$ 26.50
August 1, 2026 - July 31, 2027	\$ 111,375.00	\$ 9,281.25	\$ 27.50
August 1, 2027 - July 31, 2028	\$ 115,425.00	\$ 9,618.75	\$ 28.50

4. In accordance with Section 17.9 of the Lease, notwithstanding Landlord's and Tenant's notice addresses set forth in Section 17.9 of the Lease and in lieu thereof, Landlord's and Tenant's notice addresses will be as follows:

If to Landlord:

GFS Realty LLC
c/o Ahold U.S.A., Inc.
1385 Hancock Street
Quincy, Massachusetts 02169
Attn: Senior Vice President of Real Estate

With a copy under separate cover to:

GFS Realty LLC
c/o Ahold U.S.A., Inc.
1385 Hancock Street
Quincy, Massachusetts 02169
Attn: Vice President of Real Estate Law



If to Tenant:

Montgomery County, Maryland
Department of Liquor Control
201 Edison Park Drive
Gaithersburg, Maryland 20878
Attn: Director

With a copy to:

Montgomery County, Maryland
Department of General Services
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attn: Director of Real Estate

With a copy that does not constitute notice to:

Montgomery County, Maryland
Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

5. Section 18.4 on page 21-a of the Lease, is hereby deleted in its entirety and replaced with the following:

“§18.4. Non-Appropriations. Landlord acknowledges that Tenant has appropriated funds only for payment of rent for the term of this Lease through and including the last day of the first year of the Third Extended Term, as such term is defined in the Third Amendment of Lease. Landlord further acknowledges and agrees that Tenant’s obligations under the Lease, to pay rent in future years, is subject to the appropriation of funding for such purpose in future years by Tenant. The term Tenant, as used in this Section 18.4, includes the County Executive, the County Council, and all County employees and agents of the County. Tenant makes no warranty, guarantee, or representation and undertakes no obligation to request or obtain an appropriation of funds in future years for payment of rent. Landlord acknowledges and agrees that Tenant’s budget constitutes an executive and legislative function that cannot be contracted away. Landlord irrevocably waives any claim against Tenant for unpaid rent or other damages which occur after the date of non-appropriation, if funds are not appropriated in future years for payment of rent, including any claim that the failure to appropriate such funds constitutes a breach of any express or implied covenant of good faith and fair dealing or any other implied obligation on the part of Tenant to appropriate funds. Landlord does not waive any claims which arise from Tenant’s performance of its obligations under the Lease prior to the date of non-appropriation.

If funds are not appropriated for payment of rent in future years of this Lease, for any reason whatsoever, then this Lease shall automatically terminate at 11:59 p.m. on the last day for which funding is appropriated.

Tenant's fiscal year begins July 1 and ends June 30. It is anticipated that the final action on Tenant's budget will take place each May, for the upcoming fiscal year, between the 15th and 31st of the month. Tenant shall give Landlord notice, in writing, seven (7) business days after Tenant makes a final decision not to appropriate funds sufficient for Tenant to pay rent for a full fiscal year under this Lease. Such notice will clearly state the number of months, if any, in the upcoming fiscal year for which Tenant has appropriated funds sufficient to pay rent and will state the date by which Tenant will vacate the Premises, which date shall be on or before the date the Lease terminates. If this Lease is terminated under this section, Landlord, in addition to waiving all claims for any damages, shall not be entitled to reimbursement of any kind, whether for the cost of unamortized build-out, fit, finishes, or for rent abatement, or other expenses incurred by Landlord under this Lease. Landlord does not waive any claims which arise from Tenant's performance of its obligations under the Lease prior to the date of non-appropriation."

6. Landlord and Tenant each warrant and represent, upon which warranty and representation Landlord and Tenant have each relied upon in the execution of this Third Amendment, that neither Landlord nor Tenant have had any dealings of any kind with any broker in connection with the Premises or in connection with the transaction represented by this Third Amendment, except H&R Retail (the "Landlord Broker") and Jones Lang LaSalle Brokerage, Inc. (the "Tenant Broker"). Tenant shall indemnify and save Landlord harmless from and against any and all claims, loss, cost, damage and expense (including, without limitation, reasonable amounts for attorneys' fees) arising out of or in connection with the claim of any person or legal entity other than Landlord Broker and Tenant Broker, for any fee, commission or payment on account of any interest in the Premises or the Shopping Center in connection with this Third Amendment or the transaction represented hereby. Landlord shall be solely responsible for any fee or commission due to Landlord Broker in connection with this Third Amendment pursuant to a separate agreement between Landlord and Landlord's Broker. Landlord's Broker shall be solely responsible for any fee or commission due to Tenant's Broker in connection with any fee or commission due to Tenant's Broker pursuant to a separate agreement between Landlord's Broker and Tenant's Broker.
7. All of the terms and conditions appearing in the Lease, except those which are specifically amended by this Third Amendment, will continue to remain in full force and effect, and the parties ratify and confirm the Lease as amended by this Third Amendment.
8. This Third Amendment will be binding upon and inure to the benefit of the parties to this Third Amendment and their respective heirs, devisees, personal representatives, successors, and assigns.

(SIGNATURE PAGE FOR THE THIRD AMENDMENT OF LEASE FOR MONTGOMERY COUNTY, MARYLAND (DEPARTMENT OF LIQUOR CONTROL) IN OLNEY, MARYLAND #127)

WITNESS the execution of this Third Amendment under seal as of the date first set forth above.

LANDLORD:

SW SK JBT
BUSINESS
AM
LEGAL

GFS REALTY LLC

By: _____

Timothy Manoney
Senior Vice President of Real Estate
Development

TENANT:

MONTGOMERY COUNTY, MARYLAND
(Department of Liquor Control)

By: Ramona Bell-Pearson
Ramona Bell-Pearson, Assistant Chief

Administrative Officer

Date: 9/22/14

APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: Debra Nease

Date: 7/24/14

RECOMMENDED:

By: Cynthia L. Brenneman
Cynthia L. Brenneman, Director

Office of Real Estate

Date: 7/15/14

AM